

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

VICKI STILLMUNKES,

Plaintiff,

vs.

GIVAUDAN FLAVORS
CORPORATION, a Delaware
corporation; DOE DEFENDANTS 1-20;
FIRMENICH INCORPORATED; and
SYMRISE, INC., formerly doing
business as Dragoco, Inc.,

Defendants,

and

SYMRISE, INC.,

Third Party Plaintiff,

vs.

POLAROME MANUFACTURING CO.,
a/k/a Polarome International, Inc.,

Third Party Defendant.

No. C04-85-MWB

**ORDER REGARDING
DEFENDANTS' AND THIRD PARTY
DEFENDANT'S MOTIONS FOR
SUMMARY JUDGMENT**



I. INTRODUCTION AND BACKGROUND

On July 19, 2004, plaintiff Vicki Stillmunkes filed an Amended Complaint against defendants International Flavors & Fragrances, Inc. ("IFF"), Bush Boake Allen, Inc. ("BBA"), Givaudan Flavors Corp. ("Givaudan"), Firmenich Incorporated ("Firmenich"),

Symrise, Inc. (“Symrise”), Dragoco, Inc. (“Dragoco”), and five “John Doe” Defendants.¹ In her Amended Complaint, plaintiff Stillmunkes sets out claims against the six named defendants, all manufacturers, designers, or sellers of butter flavorings, for a design defect and a failure to warn regarding their butter flavorings containing diacetyl which she was exposed to during the course of her employment at a General Mills microwave popcorn plant in Iowa City, Iowa.² Symrise, in turn, filed a third party complaint against Polarome International, Inc. (“Polarome”), a distributor of diacetyl, for contribution.

Defendant Symrise and third-party defendant Polarome have each filed motions for summary judgment. In addition, defendant Firmenich has filed a joinder with defendant Symrise’s motion for summary judgment. Defendant Symrise’s motion seeks dismissal of both claims against it on the following grounds: first, that plaintiff Stillmunkes’s product defect claim fails as a matter of law because plaintiff Stillmunkes cannot offer any evidence of an alternative design; second, that plaintiff Stillmunkes’s failure to warn claim fails because Symrise did not know or could reasonably have known that diacetyl could cause bronchiolitis obliterans; third, that plaintiff Stillmunkes’s failure to warn claim fails even if Symrise did know that diacetyl could cause bronchiolitis obliterans because Symrise did not have a duty to warn plaintiff Stillmunkes since her employer was a sophisticated user; and, finally, that plaintiff Stillmunkes’s failure to warn claim fails because Symrise’s failure to warn was not the proximate cause of plaintiff Stillmunkes’s injuries. In its joinder of defendant Symrise’s motion for summary judgment, defendant Firmenich argues that plaintiff Stillmunkes’s failure to warn claim against it fails because Firmenich did not

¹Symrise was created from a merger involving Dragoco and another entity. For the purposes of this order the court will refer to them collectively as Symrise.

²Defendants IFF and BBA were dismissed from the case on June 21, 2005, by joint stipulation of the parties.

know, or have any reason to know, of the alleged health hazards of diacetyl during the time that plaintiff Stillmunkes was exposed to butter flavorings containing diacetyl.

Third-party defendant Polarome adopts in its summary judgment motion all of the arguments put forth by defendant Symrise in its motion for summary judgment and argues that because summary judgment should be granted in favor of defendant Symrise, defendant Symrise's claim against Polarome for contribution is moot. Third-party defendant Polarome also argues that it did not have a duty to warn defendant Symrise regarding diacetyl because Symrise is a sophisticated user. Finally, third-party defendant Polarome asserts that it is entitled to summary judgment on defendant Symrise's contribution claim because defendant Symrise has failed to produce any evidence that Polarome failed to satisfy or comply with industry standards associated with such a distributor.

II. LEGAL ANALYSIS

Because the court wishes to apprise the parties of the disposition of the pending motions for summary judgment so that they may continue their pretrial preparations, the circumstances necessitate that a "summary" summary judgment ruling must suffice.

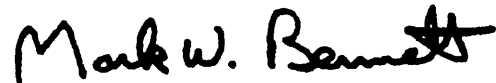
[As this court has often explained, applying the standards of Rule 56 of the Federal Rules of Civil Procedure, the trial judge's function at the summary judgment stage of the proceedings is not to weigh the evidence and determine the truth of the matter, but to determine whether there are genuine issues for trial. *Quick v. Donaldson Co.*, 90 F.3d 1372, 1376-77 (8th Cir. 1996); *Johnson v. Enron Corp.*, 906 F.2d 1234, 1237 (8th Cir. 1990). The parties are to be complimented on their thorough and exhaustive briefing of the issues involved in this litigation. Upon review of the record, however, the court is compelled to conclude that genuine issues of material fact preclude summary judgment in

defendant Symrise, defendant Firmenich, or third-party defendant Polarome's favor on any of the issues or claims on which defendant Symrise, defendant Firmenich, and third-party defendant Polarome seek such judgment.

Therefore, defendant Symrise and third-party defendant Polarome's respective motions for summary judgement, as well as defendant Firmenich's joinder of defendant Symrise's motion, are each **denied**.

IT IS SO ORDERED.

DATED this 27th day of March, 2008.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is stylized with a large, looped "M" and a cursive "Bennett".

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

Exhibit 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

RONALD KUIPER, ET AL.,) NO. C06-4009-MWB
)
) VIDEOTAPED
PLAINTIFFS,) DEPOSITION OF
) GREGORY HOFFMAN
VS.) TAKEN ON BEHALF OF
) DEFENDANT GIVAUDAN
INTERNATIONAL FLAVORS &)
FRAGRANCES, INC., ET AL.,)
)
DEFENDANTS.)

- - - - -
VIDEOTAPED DEPOSITION OF GREGORY HOFFMAN,
taken before Kristin M. Teel, Registered
Professional Reporter, General Notary Public within
and for the State of Nebraska, beginning at
12:34 p.m., on March 19, 2008, at the Law Offices of
Thomas & Poulson, 705 Douglas Street, Sioux City,
Iowa.



1 Zarro for Defendant Givaudan.
2 MR. POULSON: Jeff Poulson
3 representing the witness.

4 GREGORY HOFFMAN,
5 having been first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. ZARRO:

9 Q Could you state and spell your full name
10 for the record for us.

11 A Certainly. My full name is Gregory Steven
12 Hoffman, G-R-E-G-O-R-Y, S., and then Hoffman,
13 H-O-F-F-M-A-N.

14 Q Thanks. What is your current position
15 with American Popcorn?

16 A I'm the vice president of production.

17 Q Could you give us a brief description of
18 your role in the company?

19 A Certainly. Effectively, it could easily
20 be also titled vice president of operations. I'm
21 involved with the day-to-day production as well as
22 overseeing the HR segment as well as what we call
23 our field department, which involves the contracting
24 and growing of our popcorn.

25 Q Now, when you say the day-to-day

1 operations, would that be here in Sioux City?

2 A That's correct, at our -- our main
3 facility. Our primary facility is here in
4 Sioux City, and that is -- that is -- that is my
5 resident place of business, yes, sir.

6 Q Okay. Do you know Ron Kuiper, the
7 plaintiff in this case?

8 A Yes, I do.

9 Q Okay. How long have you known Ron Kuiper?

10 A I've -- I came to work in 1985. I started
11 actually in -- in a small satellite facility in
12 Schaller, Iowa. I was transferred into Sioux City
13 at the -- at our main facility in 1989.

14 Ron was actually part of our shelling
15 crew, if you will, at that time, and I had some
16 direct communication with Ron when I first came on
17 board in Sioux City in 1989.

18 Q What did you talk to Mr. Kuiper about
19 there when you first came on in 1989?

20 A Well, his duties encompassed the shelling
21 of the ear corn, which -- which literally means when
22 the corn was delivered on the cob, it went through a
23 process coming out of our corncribs. It went
24 through a motorized sheller where we would spin off
25 the kernels, if you will, and separate the cob and

1 the husk and the chaff and everything.

2 And so Ron was one of our -- our shell --
3 on the shelling crew, and so I would have
4 communicated with Ron, sometimes on a daily basis,
5 identifying what section of what crib and what
6 hybrid and just overall discussion about what his --
7 his daily responsibilities would be.

8 Q Now, at that time what was your position?

9 A I was -- I was part of the field
10 department, which is certainly part of what I
11 currently do. But at that time, I was responsible
12 for the growing crop as well as when it was
13 delivered at harvest. And my responsibility
14 somewhat ended at the -- at the packaging facility,
15 so from the -- from the farmer up through the
16 milling and cleaning process and up to the package,
17 so that would have been everything in between.

18 Q Okay. And just so I get my dates
19 straight, when did you say you first met Ron Kuiper?
20 Would it have been sometime between '85 and '89?

21 A It would have been in '89 that I would
22 have had direct contact with Mr. Kuiper.

23 Q Okay.

24 A I believe he was -- yeah, that's correct.

25 Q So just going to go ahead and finish up

1 the chronology of --

2 A Uh-huh.

3 Q -- your work with APC. After you worked
4 in the field department running that operation, when
5 did you sort of assume the -- the position of vice
6 president of production?

7 A That actually wasn't until my -- my
8 predecessor left, Larry Bruyer, which would -- I
9 think I took over that role in 1998, I believe I
10 took on the vice president role.

11 Q So --

12 A But let me back up just a little bit, sir.

13 Q Sure.

14 A I was actually involved in -- early on,
15 probably around '93, '94, I became HR director as
16 well. So it was a -- certainly a mixed bag, but
17 nonetheless, I was involved in the -- not only in
18 the field department, but certainly in the hiring
19 and the -- being a resource for our -- our working
20 population.

21 Q So how long was Mr. Kuiper part of the
22 shelling crew, to your knowledge?

23 A I believe Mr. Kuiper was hired in -- in
24 1986. And if -- if memory serves me correctly,
25 he -- he actually was invited to come down and be

1 Odor: A light yellow powder with characteristic
2 aroma, in both of these. And another one says, A
3 light to medium yellow powder with characteristic
4 aroma. That was two different -- do those
5 descriptions help you at all place this in what
6 product it might be?

7 A I'm sorry, I would be misleading you if I
8 said yes.

9 Q No. Again, the whole process is to get
10 your best estimates and your specific testimony, not
11 any speculation, so we'll move right along.

12 A Okay.

13 Q Have you ever seen these material
14 safety --

15 MR. CRICK: I can print out a
16 document that says it, if you want it. I'll do it
17 when it's my turn.

18 MR. ZARRO: Okay. You pull it
19 together for us then.

20 MR. CRICK: I did. Both of them.

21 BY MR. ZARRO:

22 Q The -- do you recognize these material
23 safety data sheets?

24 A Yes. I have seen data sheets like this
25 before.

62

1 Q Okay. How about Mr. Kuiper?

2 A Not specifically to Mr. Kuiper, no.

3 Q Okay. Did American Popcorn store material
4 safety data sheets on site at the plant?

5 A Yes.

6 Q Where would you store them?

7 A They're stored in our -- in our -- what we
8 call our primary passage hallway where everyone goes
9 to and from the production floor, accesses to the
10 upstairs break room. It is front and center --
11 right next to where they put on their hair nets and
12 their earplugs every day.

13 Q Are members of the mixing room team,
14 between '92 and '99, trained regarding the location
15 and use of material safety data sheets?

16 A Yes.

17 Q Okay. Is that part of what the safety
18 team, you and Mr. Hartshorn, train the employees to
19 do?

20 A Yes.

21 Q Okay. Have you ever had any
22 conversations -- a big, broad question -- with
23 anyone at Tastemaker between 1992 and 1999?

24 A Personally, no.

25 Q Okay. How about Givaudan, anybody --

64

1 Q Okay. Do you recall reviewing material
2 safety data sheets from Tastemaker at any time?

3 A Yes.

4 Q Okay. In what context would you review a
5 material safety data sheet?

6 A In the context of shipping and receiving,
7 warehousing, overall fire hazard, as well as -- as
8 well as certainly any personal safety concerns.

9 Q Okay. Got it. Now, in the context of
10 personal safety concerns, have you ever reviewed a
11 material safety data sheet for butter flavoring
12 relating to an employee complaint?

13 A Relating to an employee complaint?

14 Q Well, I need to give you a time frame, so
15 I'll withdraw the question.

16 We're going to focus on the time
17 Mr. Kuiper worked in the mixing room, from '92 to
18 '99. Do you recall ever reviewing with a member of
19 the mixing room team the contents of a material
20 safety data sheet?

21 A Kevin Remmes was our -- oftentimes part of
22 the gatekeeping process for our MSDSs as they came
23 in. He would help to ensure that we received
24 current -- so I would have been talking to Kevin
25 about this at times, yes.

63

1 between that -- in that time frame, say about '97 to
2 '99?

3 A No, I did not.

4 Q Okay. Did you receive any communications
5 from Tastemaker relating to their butter flavoring
6 products other than these material safety data
7 sheets?

8 A That would have been primarily
9 Mr. Hartshorn's responsibilities. I would not have
10 been part of that loop.

11 Q Okay. The health hazard rating of one up
12 in the upper right-hand corner, can you give me an
13 understanding of what that means?

14 (Phone ringing.)

15 THE WITNESS: Well, quite frankly I
16 would -- I would reference the -- the -- what each
17 one of these would be, you know, and -- and
18 typically on a -- you know, with a cheat sheet on
19 the back, that's typically attached. And that --
20 but it represents -- I would say most of us would
21 recognize a one as a -- that of very little concern.
22 BY MR. ZARRO:

23 Q Okay. But looking down at the -- let me
24 ask you this.

25 Do you look at material safety data sheets

65

Pages 62 to 65

1 as a whole? In other words, as an entire document?

2 MR. CRICK: What does that mean?

3 THE WITNESS: Yes, in that every
4 safety data sheet for the last ten years has used,
5 you know, a different format in terms of how it's
6 structured and how it's laid out. So oftentimes, in
7 order to understand how it's put together, we would
8 typically try to look at the whole document rather
9 than just one page.

10 BY MR. ZARRO:

11 Q There you go. That's what I'm looking
12 for.

13 Now, if you look at the health hazard data
14 in this -- well, let's take a look at 2472027. It
15 says, Skin, eyes -- May be irritating to skin, eyes.
16 Do you see that there?

17 A Uh-huh.

18 Q At this point in time, this -- the
19 document, if we would go all the way back to the --
20 the final page -- let's give a time frame -- it
21 says, Date of issue, 3-19-93, right?

22 A Okay.

23 Q So as of March 1993, you already had
24 measures in place to protect skin and eyes from
25 butter flavoring; is that right?

66

1 How about skin?

2 A We provided coveralls, if you will. I'm
3 not absolutely certain when that -- when that part
4 of the protective equipment program was initiated.
5 We've always had gloves available. We've always had
6 long rubber, rather thick, neoprene style that went
7 clear up to the elbow have always been available.

8 We would typically -- a well-dressed mixer
9 would have a pair of cotton gloves with these arm
10 length gloves over the top of them because
11 oftentimes in the mixing room, we would be -- we
12 would be spraying water and some different things so
13 it was also a function of keeping

14 Q Okay. You also see under appropriate
15 hygienic practices it says, Avoid breathing fumes.
16 Can you give me your understanding of how you would
17 respond to that?

18 A Given the rating and -- and given the
19 other directives within this MSDS, we did not take
20 that as a mandate to -- or a communication to -- to
21 be absolutely careful not to inhale the fumes.

22 We don't have any sort of procedures for
23 your employees to avoid breathing fumes that come
24 from a butter-flavoring product like this?

25 A Anytime anyone was in the mixing room,

68

1 MR. CRICK: That's an overstatement.
2 I object.

3 MR. ZARRO: How about this, simple
4 question.

5 BY MR. ZARRO:

6 Q Did the mixing room team wear gloves when
7 they handled butter flavoring in 1993?

8 A I would say that some did and some didn't,
9 to be honest with you.

10 Q All right. Now, in terms of the eye
11 protection, we've gone over that at length, yes?

12 A Yes.

13 Q Okay. Now, going further down, it says,
14 Inhalation. Inhalation is irritating to nose,
15 throat and lungs.

16 Can you give me your understanding of what
17 it means to -- for a -- for a product to be
18 irritating to the nose, throat and lungs?

19 A That description tells me that it's a
20 nuisance, that it's nothing of significance.

21 Q Okay. Under applicable control measures,
22 it says, Avoid contact with eyes, skin and clothing.

23 Can you describe for me what -- I guess
24 you may have already described for me what American
25 Popcorn Company has done to avoid contact with eyes.

67

1 we -- the policy was that we -- and we asked and
2 reinforced all the time that they should be wearing
3 a full-faced respirator.

4 Q Under engineering controls, it says,
5 Provide adequate ventilation. Does the term
6 adequate ventilation have a meaning in the trade?

7 A It may, sir, but none that -- that I put
8 in an engineering formulary, so --

9 Q Have you seen this type of warning under
10 engineering controls in other MSDS?

11 A In a lot of applications, yes.

12 Q So can you give me your understanding of
13 what adequate ventilation would be?

14 A Don't use it in a nonventilated area.

15 MR. ZARRO: Okay. Let's call a
16 time-out.

17 VIDEOGRAPHER: The time is 2:27 p.m.
18 Counsel, we're off the record.

19 (Short break taken.)

20 VIDEOGRAPHER: The time is 2:34 p.m.
21 Counsel, we're back on the record.

22 BY MR. ZARRO:

23 Q Mr. Hoffman, do you live in Iowa?

24 A Yes, I do.

25 Q Very good. Thank you. I want to -- if I

69

Pages 66 to 69

1 about those. I just wanted to mark those for now.
2 BY MR. CRICK:
3 Q Did you ever meet with anyone from
4 Fries & Fries?
5 A No, sir.
6 Q Okay. I took your deposition before and I
7 went through a lot of these things before so I'm not
8 going to do it again. But let me just ask you, in
9 context with these, during the time that you were
10 buying from Fries & Fries in the -- in the early
11 '90s when you were just getting started, did anybody
12 from that company tell you that they were having
13 experiences of bronchiolitis obliterans at their
14 plant?
15 A No.
16 Q And did anyone from Fries & Fries tell you
17 that they were investigating the link to diacetyl to
18 bronchiolitis obliterans at their plant?
19 A No, sir.
20 MR. ZARRO: Objection, assumes facts.
21 Go ahead.
22 BY MR. CRICK:
23 Q And did they tell you that employees were
24 complaining of breathing problems when working
25 around diacetyl?

78

1 MR. ZARRO: Objection --
2 THE WITNESS: No.
3 MR. ZARRO: -- assumes fact.
4 BY MR. CRICK:
5 Q And Mr. Zarro showed you the material
6 safety data sheet for Butter Flavor 247027 and
7 247028. Those indicated that no respiratory
8 protection was required. Did you observe that?
9 A Yes, sir.
10 Q And were you aware that at the
11 Fries & Fries plant, that anytime that someone was
12 in a room where diacetyl was present, respirators
13 were to be worn?
14 A I was not aware of that.
15 Q And you tried to do everything that you
16 could, being on the safety committee, to make sure
17 that you were aware of information to protect your
18 employees; is that fair?
19 A To the best of our ability.
20 Q Exhibit No. 23 is an April 18, 1990,
21 letter from Fries & Fries to Dale Hartshorn
22 discussing diacetyl, and it indicates that, In the
23 United States, diacetyl has been deemed to be
24 generally recognized as safe and that it was
25 approved for food use.

79

1 Do you recall Fries & Fries or Tastemaker
2 or Givaudan writing another letter about diacetyl
3 indicating that it could cause bronchiolitis
4 obliterans?
5 MR. ZARRO: Objection, vague.
6 THE WITNESS: No, sir.
7 BY MR. CRICK:
8 Q Mr. Zarro asked you some questions about
9 Mr. Kuiper. You obviously are not a medical doctor?
10 A That is correct.
11 Q And you never made any diagnosis of
12 Mr. Kuiper that he had any disease that was caused
13 by flavoring, did you?
14 A No.
15 Q That would have been out of your area of
16 expertise?
17 A Yes.
18 MR. CRICK: That's all the questions
19 I have.
20 THE WITNESS: Very good.
21 MR. ZARRO: Okay. I've got a
22 follow-up, as long as we're on the record.
23 REDIRECT EXAMINATION
24 BY MR. ZARRO:
25 Q If you look at the -- let's just take the

80

1 one we marked as Exhibit 3, 2020 -- 247027, the MSDS
2 that we marked --
3 THE WITNESS: I gave that back to
4 you. Could I get that from you? I think it's in
5 your pile right there, maybe.
6 COURT REPORTER: I'm sorry.
7 BY MR. ZARRO:
8 Q Okay. Under personal protective
9 equipment, does it say respirators are not
10 necessary?
11 A Okay. Which -- which section --
12 Q If you'll look under Section Roman
13 Numeral VII, Applicable control measures --
14 A Very good. Okay.
15 Q -- and if you'll look under personal
16 protective equipment, it doesn't say that they're --
17 does it say that respirators are not required?
18 A No.
19 Q So you just took Mr. Crick's
20 misrepresentation of what it said at face value, if
21 you understand what I'm saying? It does not say,
22 Don't use respirators, right?
23 A It does not say, Do not use respirators,
24 correct.
25 MR. ZARRO: All right. That's all I

81

Pages 78 to 81

MR. CRICK: No more questions. Thank you.

THE WITNESS: Thank you.

VIDEOGRAPHER: The time is 3:06 p.m.

Counsel, we're off the record.

(Adjournment - 3:06 p.m.)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION
RONALD KUIPER, ET AL.,) NO. C06-4009-MWB
)
) VIDEOTAPED
PLAINTIFFS,) DEPOSITION OF
) GREGORY HOFFMAN
VS.) TAKEN ON BEHALF OF
) DEFENDANT GIVAUDAN
INTERNATIONAL FLAVORS &)
FRAGRANCES, INC., ET AL.,)
) COST CERTIFICATE
DEFENDANTS.)

I, Kristin Teel, Registered Professional Reporter, General Notary Public within and for the State of Nebraska, do hereby certify that the following costs should be assessed in the above-entitled matter to:

DEFENDANT
DEPOSITION OF: GREGORY HOFFMAN
DATE TAKEN: March 19, 2008
AMOUNT: \$
ORIG. DELIVERED TO: Mr. Zarro
ATTORNEY FOR: Defendant Givaudan
DATE DELIVERED:

KRISTIN TEEL, RPR, CSR
GENERAL NOTARY PUBLIC

My Commission Expires:

C E R T I F I C A T E
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Kristin DeRocher Teel, Registered Professional Reporter, General Notary Public within and for the State of Nebraska, do hereby certify that the foregoing testimony of GREGORY HOFFMAN was taken by me in shorthand and thereafter reduced to typewriting by use of Computer-Aided Transcription, and the foregoing eighty-five (85) pages contain a full, true and correct transcription of all the testimony of said witness, to the best of my ability;

That I am not a kin or in any way associated with any of the parties to said cause of action, or their counsel, and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I hereunto affix my
signature and seal this day of , 2008.

KRISTIN TEEL, RPR, CSR
GENERAL NOTARY PUBLIC

My Commission Expires:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

WESTERN DIVISION
RONALD KUIPER, ET AL.,) NO. C06-4009-MWB

) VIDEOTAPED
 PLAINTIFFS,) DEPOSITION OF
 VS.) GREGORY HOFFMAN
) TAKEN ON BEHALF OF
) DEFENDANT GIVAUDAN
 INTERNATIONAL FLAVORS &)
 FRAGRANCES, INC., ET AL.,)
) COST CERTIFICATE
 DEFENDANTS.)

I, Kristin Teel, Registered Professional Reporter, General Notary Public within and for the State of Nebraska, do hereby certify that the following costs should be assessed in the above-entitled matter to:

DEFENDANT
DEPOSITION OF: GREGORY HOFFMAN
DATE TAKEN: March 19, 2008
AMOUNT: \$
ORIG. DELIVERED TO: Mr. Zarro
ATTORNEY FOR: Defendant Givaudan
DATE DELIVERED:

KRISTIN TEEL, RPR, CSR
GENERAL NOTARY PUBLIC

My Commission Expires:

C E R T I F I C A T E
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Kristin DeRocher Teel, Registered Professional Reporter, General Notary Public within and for the State of Nebraska, do hereby certify that the foregoing testimony of GREGORY HOFFMAN was taken by me in shorthand and thereafter reduced to typewriting by use of Computer-Aided Transcription, and the foregoing eighty-five (85) pages contain a full, true and correct transcription of all the testimony of said witness, to the best of my ability;

That I am not a kin or in any way associated with any of the parties to said cause of action, or their counsel, and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I hereunto affix my
signature and seal this day of , 2008.

KRISTIN TEEL, RPR, CSR
GENERAL NOTARY PUBLIC

My Commission Expires:

Exhibit 3

1 (Pages 1 to 4)
REALTIME UNEDITED TRANSCRIPT ONLY

EXHIBIT

3

| | | | | |
|---|---|---|---|---|
| 1 | 1 | 1 March 3, 2009, in front of Judge Bennett for day 9 in 2 Kuiper versus Givaudan. ^ 8:02 3 THE COURT: Okay. Good morning. We have the Rule 4 50 motion. I've read it. Anything you want to add to it? 5 MR. DONOVAN: Your Honor, we have made the basic 6 arguments in the document. I'm glad to restate those, to 7 emphasize a few of them, or to respond to any questions Your 8 Honor may have regarding the arguments. 9 THE COURT: Well, it's like we're trying two 10 different cases, the one I see and the one you see, so no 11 point adding anything for my benefit. I find the motion 12 inconceivable. 13 MR. DONOVAN: Your Honor, do you want me for the 14 record -- 15 THE COURT: It's not the case I'm trying. Might be 16 a canned brief for some other case but not the case I'm 17 trying, so motion's denied. Anything else? 18 MR. DONOVAN: No, Your Honor. 19 THE COURT: Now, on the jury instructions issue, I 20 am not reinstructing, so to the extent you're asking me -- 21 I'm not sure what you're asking me to reinstruct on. I've 22 never reinstructed on a case. I've tried hundreds of cases 23 this way. Never once I've been asked to reinstruct, and if 24 I had been asked to reinstruct in every case, I would have 25 said no. There's absolutely no reason to reinstruct. | 3 | 1 that was the main basis for the objection to it. 2 THE COURT: Well, are you saying it's a wrong 3 statement of the law? 4 MR. DONOVAN: I think it's -- I think it's somewhat 5 unclear in the wake of Wright whether there's been any case 6 law addressing that. It was certainly the statement that 7 was formulated in Olson as Your Honor noted and has been 8 applied by Your Honor I know in pre-Wright cases. So that 9 was the basis. And we also objected just on the fact that 10 it tends to bring to the front at the end one aspect of this 11 broader determination as opposed to, you know, other aspects 12 that are significant in the jury's consideration. So in 13 that sense we thought it unduly emphasized one piece of 14 this. 15 THE COURT: Well, then I can put some language in 16 there you should take this along with all of the 17 instructions and treat them as a whole language. Doesn't 18 that obviate any concern you would have about that it calls 19 special attention to it? 20 MR. DONOVAN: I think, Your Honor -- 21 THE COURT: What do you want me to do? Read them 22 all over again? 23 MR. DONOVAN: Well, we did -- we filed, Your Honor, 24 a short -- in response to your request a document with 25 briefing on the two proposed supplemental instructions that |
| 2 | 2 | 1 Again, you're like the -- you're the team who cried 2 wolf. You're saying if I give one supplemental instruction 3 that somehow you're going to be prejudiced just like you'd 4 be prejudiced if you hadn't have done cumulative testimony 5 on your witness yesterday, just like -- you know, everything 6 that doesn't go your way, it's a scream of prejudice. And 7 so you really are like the team who cried wolf. That is in 8 my opinion about as ludicrous an objection as I've seen in 9 15 years. 10 Now, if there are other things that need further 11 supplemental instruction, I'm open to that. I'm open to 12 that. I'm not -- but to say that -- I don't -- and I didn't 13 understand even what your objection was to my supplemental 14 instruction. It's not an incorrect statement of the law. 15 Or are you claiming that it is? 16 MR. DONOVAN: Your Honor, our position was that the 17 instruction that was given is consistent with the standard 18 instruction in the law and does adequately cover the fact of 19 what a manufacturer knew or should have known and there has 20 been evidence on that. And in addition, in the wake of the 21 Wright decision, it is not clear that this remains a part of 22 kind of the formulation of what is considered in determining 23 design defect and failure to warn. We felt the instruction 24 as given adequately met both what the parties had requested 25 initially and what the standard instruction included, and | 4 | 1 Your Honor had raised last week. And we also proposed 2 several clarifying instructions additionally. We believe 3 that it would make the most sense to recharge on this. We 4 understand that that's a significant amount of time, but we 5 feel it brings a couple of different aspects out of -- kind 6 of pulls them out and puts them in front of the jury at the 7 end of the case when it's -- 8 THE COURT: Well, if you tell them you should treat 9 any supplement -- I told them at the beginning that there 10 might be supplemental instructions. So if you tell them 11 that you should just treat the supplemental instructions as 12 they do all the other instructions and treat them as a 13 whole, how can there possibly -- I -- do you have any 14 evidence that there would be any prejudice? 15 MR. DONOVAN: No, Your Honor. 16 THE COURT: Well, what's your basis for the 17 argument that there would be prejudice? 18 MR. DONOVAN: Just the primacy of the one statement 19 versus the distant instruction prior to that and the fact 20 that Your Honor is focusing on those. 21 THE COURT: Okay. Well, I told everybody and I 22 told the jury that I was going to read their instruction on 23 duty on deliberations and I save that for last until after 24 closing argument. Is that prejudicial? 25 MR. DONOVAN: No, Your Honor, I don't believe so, |

32 (Pages 125 to 128)
REALTIME UNEDITED TRANSCRIPT ONLY

| | | |
|------------|---|------------|
| 125 | <p>1 that local exhaust, was that in effect in the period between</p> <p>2 '92 and '96?</p> <p>3 A. Yes.</p> <p>4 Q. Now, was NIOSH at the end of this process, were they</p> <p>5 critical of what you were doing in the workplace?</p> <p>6 A. No, just the opposite. They were very complimentary.</p> <p>7 You know, in their experience what they had seen in other</p> <p>8 microwave manufacturing facilities -- and I certainly can't</p> <p>9 tell you which ones they are -- but Dr. Kanwal and Dr. Kullman</p> <p>10 were very impressed by many of the practices and protocols</p> <p>11 that we had in place.</p> <p>12 Q. Now, there's been some mention of Mr. Kuiper training the</p> <p>13 next person who took over the mixing function after he left</p> <p>14 the mixing room, just tell you that. Was Mr. Kuiper -- did he</p> <p>15 need to be present in the mixing room to do the training?</p> <p>16 A. No, sir.</p> <p>17 Q. Why is that?</p> <p>18 A. Well, it's an isolated room, but it also has glass</p> <p>19 windows going into the mixing room itself. There's several</p> <p>20 ways it could be done without him entering into the room, and</p> <p>21 our efforts were to keep him out of the room. So he could --</p> <p>22 he could direct the trainee, if you will, either by hand</p> <p>23 motions or by having the individual come out into the hallway</p> <p>24 outside of the mixing room, draw him a map, if you will, but</p> <p>25 most of it was done -- was done orally and/or on a dry run</p> | 127 |
| 126 | <p>1 when there was no mixing going on in the room.</p> <p>2 Q. You said there was an effort to keep Mr. Kuiper out of</p> <p>3 the mixing room. Why is that, Mr. Hoffman?</p> <p>4 A. In order for us to keep our respirator policy intact,</p> <p>5 we -- anyone that was wearing a mask at American Pop Corn</p> <p>6 Company, whether it be anyone working in any of our corn</p> <p>7 receiving area, in any of our production areas, we were all</p> <p>8 required to do fit testing. And then the full face</p> <p>9 respirators required a certain level of respiratory function</p> <p>10 in order to qualify to wear a respirator in the mixing room.</p> <p>11 Mr. Kuiper, his P F T was not high enough to qualify, if you</p> <p>12 will, to wear a respirator at that time.</p> <p>13 Q. Okay.</p> <p>14 MR. PAGLIARO: I have no further questions, Your</p> <p>15 Honor. Thank you. Thank you, Mr. Hoffman.</p> <p>16 THE COURT: Thank you. Why don't we take a stretch</p> <p>17 break. Then we'll hear from Mr. McClain.</p> <p>18 Thank you. Please be seated.</p> <p>19 Mr. McClain?</p> <p>20 CROSS-EXAMINATION</p> <p>21 BY MR. MCCLAIN:</p> <p>22 Q. Still morning, Mr. Hoffman, so good morning.</p> <p>23 A. Good morning, sir.</p> <p>24 Q. Mr. Hoffman, did you know that Givaudan is blaming</p> <p>25 American Pop Corn for whatever injury occurred to Ron Kuiper</p> | 128 |
| | <p>1 in this case?</p> <p>2 MR. PAGLIARO: Objection, Your Honor. No</p> <p>3 foundation.</p> <p>4 MR. MCCLAIN: Well, let me --</p> <p>5 THE COURT: Objection's overruled.</p> <p>6 BY MR. MCCLAIN:</p> <p>7 Q. Did you know that?</p> <p>8 A. No, sir.</p> <p>9 Q. Well, I want to show you an instruction that is on one of</p> <p>10 Givaudan's defenses, the sophisticated user defense it's</p> <p>11 so-called. It says that -- no, go up to the top, Scott, would</p> <p>12 you? It says Givaudan's third defense to the Kuipers' claim</p> <p>13 is that Ronald Kuiper's employer, American Pop Corn Company,</p> <p>14 was a, quote, unquote, sophisticated user of butter flavor</p> <p>15 and, therefore, was responsible for providing warnings about</p> <p>16 the safe usage of such products to its employees such as Ron</p> <p>17 Kuiper.</p> <p>18 And then it says, one -- to prove this defense, it lays</p> <p>19 out the elements. And it says the first thing is, one,</p> <p>20 American Pop Corn Company knew or should have known of the</p> <p>21 potential dangers of butter flavors containing diacetyl.</p> <p>22 Now, Mr. Hoffman, did the American Pop Corn Company in</p> <p>23 the time that Ron Kuiper was a mixer know about the hazards of</p> <p>24 diacetyl in the butter flavor?</p> <p>25 A. No, sir.</p> <p>1 Q. Is that a completely false statement that you knew about</p> <p>2 the hazards of butter flavor?</p> <p>3 MR. PAGLIARO: Objection, Your Honor. That's in an</p> <p>4 instruction. It's not a statement.</p> <p>5 THE COURT: Overruled.</p> <p>6 A. Would you please repeat the question? I'm sorry.</p> <p>7 BY MR. MCCLAIN:</p> <p>8 Q. Was it true that you knew the hazards of butter flavor</p> <p>9 when Ron Kuiper was working in the mixing room?</p> <p>10 A. Butter flavor or diacetyl?</p> <p>11 Q. Well, both. I mean, butter flavor containing diacetyl.</p> <p>12 A. Not all aspects of it, no, sir.</p> <p>13 Q. I mean, in other words, did you know it would cause</p> <p>14 permanent lung injury to people working around it?</p> <p>15 A. No.</p> <p>16 Q. I mean, would you have ever subjected Ron Kuiper to that</p> <p>17 kind of hazard if you had known about it?</p> <p>18 A. No, sir.</p> <p>19 Q. Would you have ever risked your employees' health working</p> <p>20 around butter flavor if you'd known of the dangers?</p> <p>21 A. No, sir.</p> <p>22 Q. Before we get into other aspects of your relationship</p> <p>23 with Fries and Fries, let me just ask you, Fries and Fries,</p> <p>24 Tastemaker, Givaudan, did Givaudan ever warn you about the</p> <p>25 hazards of working around butter flavor even through the</p> | |

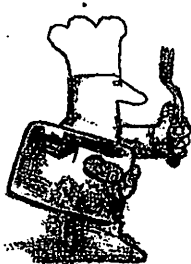
34 (Pages 133 to 136)
REALTIME UNEDITED TRANSCRIPT ONLY

| 133 | 135 |
|--|--|
| <p>1 Q. And these are the shipments to Fries and Fries but 2 delivered to the new horizon warehouse in 1992 from Givaudan 3 And that would be consistent with your recollection? 4 A. Yes, sir. 5 Q. And then there's a summary document which summarizes 6 those from 2,000 -- or 2212 is the summary document which 7 shows in '92. 2212, Your Honor, I'm not sure whether it's in 8 or out, but Mr. Pagliaro has no objection? 9 THE COURT: Okay. 10 MR. MCCLAIN: 11 Q. 2212 shows that in 1992, the first full year that Ron was 12 in the mixing room, the overwhelming quantity of materials 13 used were Fries and Fries or Tastemaker, Givaudan. Is that 14 consistent with your recollection? 15 A. Yes, it is. 16 Q. And likewise this is our stipulation number 25. Your 17 Honor, after '93, this is the amount that is stipulated that 18 went directly to Sioux City from Givaudan. Roughly 50,000 19 pounds every, a little more than that. That was the bulk of 20 the butter flavor you were buying. 21 A. I can't -- I've never seen this document. I can't speak 22 that this is a summary document of all the butter flavor that 23 we produced coming into Sioux City, no. 24 Q. Well, this -- they have stipulated that that's the butter 25 flavor they sold. I'll show you another document, 2213, which</p> | <p>1 You can see here this relates to diacetyl. Would you go over 2 to that hazards section? Did Givaudan in any of this time 3 period or even through today, did they -- have they ever told 4 you that by inhalation diacetyl is harmful and that it's 5 capable of producing systemic toxicity? Did you ever have any 6 indication from them about these facts, Mr. Hoffman? 7 A. No, sir. 8 Q. Is that something you would have liked to have known? 9 A. Yes. 10 Q. Do you know or did you have any indication in 1991 that 11 Givaudan was warned by its supplier of diacetyl that you had 12 to use air supplied respirators? 13 A. No. 14 Q. These little cartridge deals that you had the guys 15 wearing in the mixing room were not to protect against the 16 breathing vapors of diacetyl, were they? They were organic 17 cartridges. 18 A. Organic and particulate cartridges. 19 Q. Right. Now you've got your workers in scuba gear 20 essentially, right? 21 A. Supplied air, yes. 22 Q. Scott, will you show that clip? Has Mr. Pagliaro seen 23 this? Well, hang on for a minute because I want -- is there a 24 way to show him first? 25 THE COURT: Yeah, there is.</p> |
| 134 | 136 |
| <p>1 is -- 2 MR. MCCLAIN: No objection to that, Your Honor, 3 2213, is the summary document which shows that in the 4 year -- in the years 2,000 -- 1993 through 1995, that the 5 majority of product was Fries and Fries. Go on, Scott, to 6 '93 on. With a small quantity in '94 of flavors of north 7 America, 105 pounds and in '94, 245 pounds of flavors of 8 north America. Does that refresh your recollection that the 9 overwhelming amount of butter flavor through '94 was 10 Tastemaker. 11 A. Yes, I'll agree with that. 12 Q. Okay. Now, I just wanted to clarify all that so that we 13 know that you had a very strong relationship with Givaudan, 14 Tastemaker. You were in constant communication with them. 15 Did you ever hear from Givaudan in those years when they were 16 selling you so much butter flavor that workers in their own 17 plant were being diagnosed with bronchiolitis obliterans? 18 A. No, sir. 19 Q. Did you know that from 1995 -- 1985 they knew that 20 breathing diacetyl was harmful? 21 A. No, sir. 22 Q. Or it would cause systemic toxicity. 23 A. No, sir. 24 Q. Would you put that FFIDS up, Scott, so I can be sure that 25 Mr. Hoffman's never seen anything like this from Givaudan?</p> | <p>1 MR. MCCLAIN: Okay. Go ahead and show Mr. Pagliaro 2 that and make sure that . . . 3 What's the exhibit number for this? 2141. Mr. -- 4 THE COURT: Well, what'd you all decide? 5 MR. MCCLAIN: There's no objection to it. 6 THE COURT: Okay. 7 MR. PAGLIARO: As long as the witness -- 8 THE COURT: We're going -- I'm sorry. 9 MR. PAGLIARO: I'm sorry. 10 THE COURT: It's going to be used as a 11 demonstrative exhibit. 12 MR. MCCLAIN: Sure, it is. 13 MR. PAGLIARO: As long as the witness can eye 14 dent -- excuse me, authenticate it, Your Honor. 15 THE COURT: Well -- 16 MR. MCCLAIN: Let me just ask. 17 THE COURT: I don't know what you mean by 18 authenticate as long as he says -- he can -- no. It's 19 not -- he doesn't have to authenticate him. 20 MR. MCCLAIN: It's him in the video, Your Honor. 21 THE COURT: That's a different issue. 22 MR. MCCLAIN: It's the witness in the video. 23 THE COURT: Well, okay. But all he has to do is be 24 able to say what similarities, if any, it has to the closed 25 air system so . . .</p> |

35 (Pages 137 to 140)
REALTIME UNEDITED TRANSCRIPT ONLY

| | | | |
|------------|--|------------|---|
| 137 | <p>1 MR. PAGLIARO: And I apologize. I used the wrong 2 word. 3 THE COURT: That's okay. 4 Video was played in open court. 5 MR. MCCLAIN: Turn the volume down. I don't want 6 the volume playing on that. 7 BY MR. MCCLAIN: 8 Q. Mr. Hoffman, are you familiar with this video? 9 A. Yes, I am. 10 Q. Okay. You were involved in its creation? 11 A. That's correct. 12 Q. Now, I just want to back up, Scott, without the audio. 13 Stop it right there, Scott. Can you pause it? What's being 14 depicted there, can you describe that in terms of personal 15 protective equipment? 16 A. Correct. The gentleman that's entering into the -- and I 17 must say it was a temporary mixing area because we were in the 18 process of building an additional mixing room. It's what is 19 called a supplied air respirator system. 20 MR. MCCLAIN: Go ahead and play the rest of the 21 tape, Scott, so we can see more of that. 22 Continuation of video played in open court. 23 Q. Is that a better view of it right there? 24 A. Correct. 25 Q. Okay. And that's designed to protect workers from</p> | 139 | <p>1 Q. Would you have liked to have known that? 2 A. Yes, sir. 3 Q. And if they had told you there was any question about 4 this material, would you have taken precautions for your 5 workers? 6 A. We would have taken appropriate precautions, yes. 7 Q. In other words, if they'd told you that this is possible, 8 it's not been proven, but it's possible, would you have taken 9 the precautions to protect your workers? 10 A. If it was possible that it could cause worker injury, 11 absolutely. We would have taken additional precautions. 12 Q. I mean, from your standpoint, is there anything more 13 important than the health of your employees, Mr. Hoffman? 14 A. No, sir. 15 Q. I mean, you've lost a lot of sleep over this issue, 16 haven't you? 17 A. Yes, you could say that. 18 Q. And you've worried about Ron Kuiper since he's been 19 diagnosed. 20 A. Has he been diagnosed with bronchiolitis obliterans? 21 Q. Yes, sir. 22 A. I've been worried about Ron Kuiper for a long time, but I 23 was not aware that he had been diagnosed. 24 Q. He's been out of the plant for some time. 25 A. Yes, he has.</p> |
| 138 | <p>1 exposure to vapors like from diacetyl; is that right? 2 A. Correct. 3 Q. That's not what they were wearing back in '92 to '95, is 4 it? 5 A. No, sir. 6 Q. Now -- but here's the question. 7 MR. MCCLAIN: Scott, would you go to 2172 Berje 8 material safety data sheet? 9 Q. This is in evidence. One of their suppliers was 10 recommending back in '91 use positive pressure self containing 11 breathing apparatus. That's what you're using now, isn't it? 12 A. A form of, yes, sir. 13 Q. And if anybody had told you back in '91 to use this kind 14 of breathing apparatus, you would have used it to protect your 15 workers; isn't that right? 16 A. Yes, we would have. 17 Q. Absolutely. No question. 18 A. That's correct. We would have used it. 19 Q. Now, did you have any sense back during this entire time 20 period that this was going on that Givaudan was looking into 21 this and had a team of doctors working on it and were 22 examining the effect that diacetyl had upon workers? 23 A. Can you give me a time frame? 24 Q. '92 to '95. 25 A. No, I was not aware of that.</p> | 140 | <p>1 Q. And -- but you're still concerned about him even though 2 he's been out of the plant. 3 A. Absolutely. 4 MR. MCCLAIN: Thank you, Mr. Hoffman. No further 5 questions. 6 THE COURT: Any redirect? 7 MR. PAGLIARO: I have a couple questions. 8 THE COURT: Yes. Thank you. 9 MR. PAGLIARO: Just a few. 10 REDIRECT EXAMINATION 11 BY MR. PAGLIARO: 12 Q. Now, Mr. Hoffman, from the late 1980s, the workers in the 13 mixing room were assigned to and were required to wear 14 respirators. You testified to that? 15 A. That's correct. 16 Q. And the government described those respirators and as you 17 described them, they were not only for particulates, were 18 they, Mr. Hoffman? 19 A. Certainly not. They were -- they were the best 20 protection that we were aware of in terms of the organic 21 filters at that time. 22 Q. So they had organic vapor cartridges on them as well? 23 A. Yes, they did. 24 Q. Okay. And you instituted that policy because of 25 something that happened; isn't that correct?</p> |

Exhibit 4



Tastemaker

EMERGENCY PHONE NUMBER (513) 768-3650

M A T E R I A L S A F E T Y D A T A S H E E T

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435



HAZARD RATINGS

Health - 1
Flammability - 1
Reactivity - 0

I. PRODUCT IDENTIFICATION

Name: NATURAL BUTTER FLAVOR WONF #247027
Formula: Specific formulation withheld as a trade secret pursuant to provisions of 29 CFR 1910.1200 (i).
Synonym: N/A
CAS: N/A

II. PHYSICAL & CHEMICAL CHARACTERISTICS

| <u>Hazardous Ingredients</u> | <u>%</u> | <u>PEL</u> | | <u>TLV</u> | |
|------------------------------|----------|------------|--------------|------------|--------------|
| | | <u>ppm</u> | <u>mg/m3</u> | <u>ppm</u> | <u>mg/m3</u> |
| None | | | | | |

Appearance and Odor: A light yellow powder with characteristic aroma
Specific Gravity (@ 20/20 C): N/A
Solubility in Water: Complete
Melting Point: N/A
Boiling Point: N/A

Vapor Pressure (@ 20 C): N/A
Vapor Density (air = 1): N/A

III. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

WARNING! MAY FORM FLAMMABLE DUST-AIR MIXTURES. STATIC CHARGES GENERATED BY EMPTYING PACKAGE MAY CAUSE FLASH FIRE. EMPTYING PACKAGE IN OR NEAR FLAMMABLE VAPORS MAY INCREASE THE CHANCE OF STATIC CHARGES CAUSING A FLASH FIRE. Avoid all ignition sources such as heat, spark and flame. Minimize the amount of dust in air by pouring material slowly into a conductive, ground chute. Do not remove or shake plastic liner. Ground operator and all equipment. Blanket receiving vessel with inert gas.

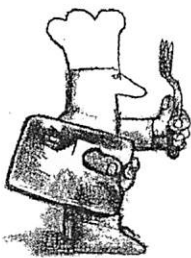
Flash Point (TCC; F): N/A
DOT Classification: Slightly Combustible
Extinguishing Media: CO(2) X Foam X Dry Chemical X
Special Fire Fighting Procedures: Use standard procedures and preferred extinguishing media above.
Unusual Fire & Explosion Hazards: Flammable dust when finely divided and suspended in air.
Hazardous Decomposition: None known
Incompatibility: Strong oxidizing agents
Hazardous Combustion Products: Burning generates CO, CO2, irritating smoke
Hazardous Polymerization: Will not occur

EXHIBIT

4

APP 0016

AmerPC 06819



Tastemaker

#247027

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

IV. SPILL & LEAK PROCEDURES

If Released or Spilled: Sweep up spilled material for disposal. Flush spill area with water spray.
Waste Disposal Method: CAUTION! Material on wet floor may be slippery. Incinerate or landfill in accordance with local, state, or federal regulations.

V. HEALTH HAZARD DATA

Permissible Exposure Limit (PEL): Not established
Threshold Limit Value (TLV): Not established
Possible Route(s) of Entry: Skin; eyes; ingestion; inhalation of vapors

Health Hazard Determination: This mixture has not been tested as a whole. None of the ingredients have been listed as a carcinogen by NTP (National Toxicology Program), OSHA (Occupational Safety & Health Administration); or IARC (International Agency for Research on Cancer). The mixture includes, however, ingredients at concentrations greater than or equal to 1% which, undiluted, could present the following hazards to health:

Skin/Eyes:

May be irritating to skin and eyes.

Ingestion:

No known health hazards.

Inhalation:

Inhalation is irritating to nose, throat, and lungs.

Misc:

Medical Conditions Generally Recognized As Being Aggravated By Exposure: None known for normal conditions of use.

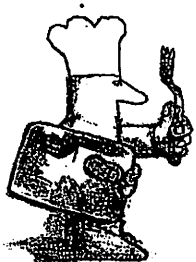
VI. EMERGENCY AND FIRST AID PROCEDURES

Eyes: Flush immediately with water for at least 15 minutes. Remove any contact lenses to ensure thorough flushing. Contact a physician as necessary.

Skin: Wash affected areas thoroughly with soap and water for at least 15 minutes. Remove any contaminated clothing or shoes; wash clothing before reuse. Contact a physician as necessary.

AmerPC 06820

APP 0017



Tastemaker

#247027

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

Ingestion: Give 1-2 glasses of water or milk to dilute the material. Seek medical attention immediately. Never give fluids or induce vomiting if person is unconscious, incoherent, or experiencing convulsions.
Inhalation: Remove to fresh air. If breathing has stopped, administer artificial respiration and oxygen if available. Contact a physician as necessary.

VII. APPLICABLE CONTROL MEASURES

Appropriate hygienic practices: Avoid contact with eyes, skin, and clothing. Wash thoroughly after handling. Avoid breathing fumes.

Personal protective equipment: Protective gloves, chemical splash goggles

Handling and storage precautions: Keep containers closed. Store in sprinklered warehouse. Keep temperature below 50 C (120 F) for quality control.

Engineering controls: Provide adequate ventilation. Eyewash fountains and safety showers should be easily accessible.

VIII. SECTION 313 SUPPLIER NOTIFICATION

This product contains the following toxic chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 and of 40 CFR 372:

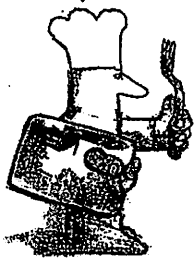
| <u>Chemical</u> | <u>CAS #</u> | <u>% by Weight</u> |
|-----------------|--------------|--------------------|
| None | | |

IX. TASTEMAKER HEALTH RATINGS

The information contained herein is provided in good faith and is believed to be correct as of the date hereof. However, Tastemaker makes no representation as to the comprehensiveness or accuracy of the information. It is expected that individuals receiving the information will exercise their independent judgment in determining its appropriateness for a particular purpose. Accordingly, Tastemaker will not be responsible for damages of any kind resulting from the use or reliance upon such information.

APP 0018

AmerPC 06821



Tastemaker

#247027

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, NO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER NATURE ARE MADE HEREUNDER WITH RESPECT TO THE INFORMATION SET FORTH HEREIN REGARDING THE PRODUCT TO WHICH THE INFORMATION REFERS.

Health Hazard: 0 = Normal material, 1 = Slightly hazardous, 2 = Hazardous
3 = Extreme danger, 4 = Deadly
Fire Hazard: 0 = Will not burn; 1 = Above 200 F; 2 = Above 100 F, not
not exceeding 200 F.; 3 = Below 73 F (Boiling pt at/above
100 F) and/or at/above 73 F. not exceeding 100 F;
4 = Below 73 F (Boiling pt. below 100 F)
Reactivity: 0 = Stable; 1 = Unstable if heated, 2 = Violent chemical
change; 3 = Shock and heat may detonate; 4 = May detonate

Date of Issue: 03/19/93

Date of Last Revision: 3/19/93

APP 0019

AmerPC 06822



Tastemaker

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

EMERGENCY PHONE NUMBER (513) 768-3650

MATERIAL SAFETY DATA SHEET



HAZARD RATINGS

Health - 1
Flammability - 1
Reactivity - 0

I. PRODUCT IDENTIFICATION

Name: NATURAL BUTTER FLAVOR WONF #247028
Formula: Specific formulation withheld as a trade secret pursuant to provisions of 29 CFR 1910.1200 (i).
Synonym: N/A
CAS: N/A

II. PHYSICAL & CHEMICAL CHARACTERISTICS

| Hazardous Ingredients | % | PEL | | TLV | |
|-----------------------|---|-----|-------------------|-----|-------------------|
| | | ppm | mg/m ³ | ppm | mg/m ³ |
| None | | | | | |

Appearance and Odor: A light to medium yellow powder with characteristic aroma

Specific Gravity (@ 20/20 C): N/A

Vapor Pressure (@ 20 C): N/A

Solubility in Water: Complete

Vapor Density (air = 1): N/A

Melting Point: N/A

Boiling Point: N/A

III. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

WARNING! MAY FORM FLAMMABLE DUST-AIR MIXTURES. STATIC CHARGES GENERATED BY EMPTYING PACKAGE MAY CAUSE FLASH FIRE. EMPTYING PACKAGE IN OR NEAR FLAMMABLE VAPORS MAY INCREASE THE CHANCE OF STATIC CHARGES CAUSING A FLASH FIRE. Avoid all ignition sources such as heat, spark and flame. Minimize the amount of dust in air by pouring material slowly into a conductive, ground chute. Do not remove or shake plastic liner. Ground operator and all equipment. Blanket receiving vessel with inert gas.

Flash Point (TCC; F): N/A

DOT Classification: Slightly Combustible

Extinguishing Media: CO(2) X Foam X Dry Chemical X

Special Fire Fighting Procedures: Use standard procedures and preferred extinguishing media above.

Unusual Fire & Explosion Hazards: Flammable dust when finely divided and suspended in air.

Hazardous Decomposition: None known

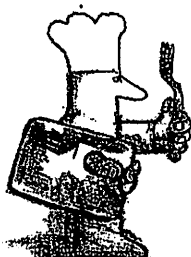
Incompatibility: Strong oxidizing agents

Hazardous Combustion Products: Burning generates CO, CO₂, irritating smoke

Hazardous Polymerization: Will not occur

AmerPC 06823

APP 0020



Tastemaker

#247028

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

IV. SPILL & LEAK PROCEDURES

If Released or Spilled: Sweep up spilled material for disposal. Flush spill area with water spray.

Waste Disposal Method: CAUTION! Material on wet floor may be slippery. Incinerate or landfill in accordance with local, state, or federal regulations.

V. HEALTH HAZARD DATA

Permissible Exposure Limit (PEL): Not established

Threshold Limit Value (TLV): Not established

Possible Route(s) of Entry: Skin; eyes; ingestion; inhalation of vapors

[Health Hazard Determination: This mixture has not been tested as a whole. None of the ingredients have been listed as a carcinogen by NTP (National Toxicology Program), OSHA (Occupational Safety & Health Administration); or IARC (International Agency for Research on Cancer). The mixture includes, however, ingredients at concentrations greater than or equal to 1% which, undiluted, could present the following hazards to health:

Skin/Eyes:

May be irritating to skin and eyes.

Ingestions:

Ingestion may cause irritation in mouth and stomach.

[Inhalation:

Nuisance mist or dust; high levels in air may be irritating.

Misc:

Medical Conditions Generally Recognized As Being Aggravated By Exposure: None known for normal conditions of use.

VI. EMERGENCY AND FIRST AID PROCEDURES

Eyes: Flush immediately with water for at least 15 minutes. Remove any contact lenses to ensure thorough flushing. Contact a physician as necessary.

Skin: Wash affected areas thoroughly with soap and water for at least 15 minutes. Remove any contaminated clothing or shoes; wash clothing before reuse. Contact a physician as necessary.

AmerPC 06824

APP 0021



Tastemaker

#247028

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

Ingestion: Give 1-2 glasses of water or milk to dilute the material. Seek medical attention immediately. Never give fluids or induce vomiting if person is unconscious, incoherent, or experiencing convulsions.
Inhalation: Remove to fresh air. If breathing has stopped, administer artificial respiration and oxygen if available. Contact a physician as necessary.

VII. APPLICABLE CONTROL MEASURES

Appropriate hygienic practices: Avoid contact with eyes, skin, and clothing. Wash thoroughly after handling. Avoid breathing fumes.

Personal protective equipment: Protective gloves, chemical splash goggles

Handling and storage precautions: Keep containers closed. Store in sprinklered warehouse. Keep temperature below 50 C (120 F) for quality control.

Engineering controls: Provide adequate ventilation. Eyewash fountains and safety showers should be easily accessible.

VIII. SECTION 313 SUPPLIER NOTIFICATION

This product contains the following toxic chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 and of 40 CFR 372:

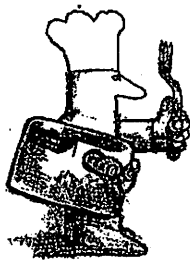
| <u>Chemical</u> | <u>CAS #</u> | <u>% by Weight</u> |
|-----------------|--------------|--------------------|
| None | | |

IX. TASTEMAKER HEALTH RATINGS

The information contained herein is provided in good faith and is believed to be correct as of the date hereof. However, Tastemaker makes no representation as to the comprehensiveness or accuracy of the information. It is expected that individuals receiving the information will exercise their independent judgment in determining its appropriateness for a particular purpose. Accordingly, Tastemaker will not be responsible for damages of any kind resulting from the use or reliance upon such information.

APP 0022

AmerPC 06825



Tastemaker

#247028

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, NO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER NATURE ARE MADE HEREUNDER WITH RESPECT TO THE INFORMATION SET FORTH HEREIN REGARDING THE PRODUCT TO WHICH THE INFORMATION REFERS.

Health Hazard: 0 = Normal material, 1 = Slightly hazardous, 2 = Hazardous
3 = Extreme danger, 4 = Deadly

Fire Hazard: 0 = Will not burn; 1 = Above 200 F; 2 = Above 100 F, not
not exceeding 200 F.; 3 = Below 73 F (Boiling pt. at/above
100 F) and/or at/above 73 F. not exceeding 100 F;
4 = Below 73 F (Boiling pt. below 100 F)

Reactivity: 0 = Stable; 1 = Unstable if heated, 2 = Violent chemical
change; 3 = Shock and heat may detonate; 4 = May detonate

Date of Issue: 03/19/93

Date of Last Revision: 3/19/93

AmerPC 06826

APP 0023



Tastemaker

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

EMERGENCY PHONE NUMBER (513) 768-3650

M A T E R I A L S A F E T Y D A T A S H E E T

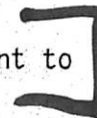


HAZARD RATINGS

Health - 1
Flammability - 1
Reactivity - 0

I. PRODUCT IDENTIFICATION

Name: NATURAL BUTTER FLAVOR WONF #205103
Formula: Specific formulation withheld as a trade secret pursuant to provisions of 29 CFR 1910.1200 (i).
Synonym: N/A
CAS: N/A



II. PHYSICAL & CHEMICAL CHARACTERISTICS

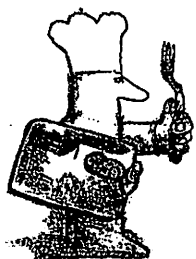
| <u>Hazardous Ingredients</u> | <u>%</u> | <u>PEL</u> | | <u>TLV</u> | |
|------------------------------|----------|------------|--------------|------------|--------------|
| | | <u>ppm</u> | <u>mg/m3</u> | <u>ppm</u> | <u>mg/m3</u> |
| None | | | | | |

| | | |
|--------------------------------------|--|-------------------------------------|
| <u>Appearance and Odor:</u> | A yellow paste with characteristic aroma | |
| <u>Specific Gravity (@ 20/20 C):</u> | N/A | <u>Vapor Pressure (@ 20 C):</u> N/A |
| <u>Solubility in Water:</u> | Negative | <u>Vapor Density (air = 1):</u> N/A |
| <u>Melting Point:</u> | N/A | |
| <u>Boiling Point:</u> | N/A | |

III. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

WARNING! MAY FORM FLAMMABLE DUST-AIR MIXTURES. STATIC CHARGES GENERATED BY EMPTYING PACKAGE MAY CAUSE FLASH FIRE. EMPTYING PACKAGE IN OR NEAR FLAMMABLE VAPORS MAY INCREASE THE CHANCE OF STATIC CHARGES CAUSING A FLASH FIRE. Avoid all ignition sources such as heat, spark and flame. Minimize the amount of dust in air by pouring material slowly into a conductive, ground chute. Do not remove or shake plastic liner. Ground operator and all equipment. Blanket receiving vessel with inert gas.

Flash Point (TCC; F): N/A
DOT Classification: Slightly Combustible
Extinguishing Media: CO(2)_X_ Foam_X_ Dry Chemical_X_
Special Fire Fighting Procedures: Use standard procedures and preferred extinguishing media above.
Unusual Fire & Explosion Hazards: Flammable dust when finely divided and suspended in air.
Hazardous Decomposition: None known
Incompatibility: Strong oxidizing agents
Hazardous Combustion Products: Burning generates CO, CO2, irritating smoke
Hazardous Polymerization: Will not occur



Tastemaker

#205103

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

IV. SPILL & LEAK PROCEDURES

If Released or Spilled: Sweep up spilled material for disposal. Flush spill area with water spray.

Waste Disposal Method: CAUTION! Material on wet floor may be slippery. Incinerate or landfill in accordance with local, state, or federal regulations.

V. HEALTH HAZARD DATA

Permissible Exposure Limit (PEL): Not established

Threshold Limit Value (TLV): Not established

Possible Route(s) of Entry: Skin; eyes; ingestion; inhalation of vapors

[Health Hazard Determination: This mixture has not been tested as a whole. None of the ingredients have been listed as a carcinogen by NTP (National Toxicology Program), OSHA (Occupational Safety & Health Administration); or IARC (International Agency for Research on Cancer). The mixture includes, however, ingredients at concentrations greater than or equal to 1% which, undiluted, could present the following hazards to health:

[Skin/Eyes:

Irritating to skin and eyes.

[Ingestion:

No known health hazards.

[Inhalation:

Inhalation is irritating to nose, throat, and lungs.

[Misc:

Medical Conditions Generally Recognized As Being Aggravated By Exposure: None known for normal conditions of use.

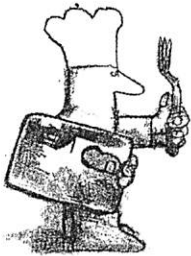
VI. EMERGENCY AND FIRST AID PROCEDURES

Eyes: Flush immediately with water for at least 15 minutes. Remove any contact lenses to ensure thorough flushing. Contact a physician as necessary.

Skin: Wash affected areas thoroughly with soap and water for at least 15 minutes. Remove any contaminated clothing or shoes; wash clothing before reuse. Contact a physician as necessary.

AmerPC 06828

APP 0025



Tastemaker

#205103

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

Ingestion: Give 1-2 glasses of water or milk to dilute the material. Seek medical attention immediately. Never give fluids or induce vomiting if person is unconscious, incoherent, or experiencing convulsions.
Inhalation: Remove to fresh air. If breathing has stopped, administer artificial respiration and oxygen if available. Contact a physician as necessary.

VII. APPLICABLE CONTROL MEASURES

Appropriate hygienic practices: Avoid contact with eyes, skin, and clothing. Wash thoroughly after handling. Avoid breathing fumes.

Personal protective equipment: Protective gloves, chemical splash goggles

Handling and storage precautions: Keep containers closed. Store in sprinklered warehouse. Keep temperature below 50 C (120 F) for quality control.

Engineering controls: Provide adequate ventilation. Eyewash fountains and safety showers should be easily accessible.

VIII. SECTION 313 SUPPLIER NOTIFICATION

This product contains the following toxic chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 and of 40 CFR 372:

| <u>Chemical</u> | <u>CAS #</u> | <u>% by Weight</u> |
|-----------------|--------------|--------------------|
| None | | |

IX. TASTEMAKER HEALTH RATINGS

The information contained herein is provided in good faith and is believed to be correct as of the date hereof. However, Tastemaker makes no representation as to the comprehensiveness or accuracy of the information. It is expected that individuals receiving the information will exercise their independent judgment in determining its appropriateness for a particular purpose. Accordingly, Tastemaker will not be responsible for damages of any kind resulting from the use or reliance upon such information.

AmerPC 06829



Tastemaker

#205103

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, NO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER NATURE ARE MADE HEREUNDER WITH RESPECT TO THE INFORMATION SET FORTH HEREIN REGARDING THE PRODUCT TO WHICH THE INFORMATION REFERS.

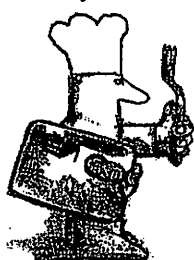
Health Hazard: 0 = Normal material, 1 = Slightly hazardous, 2 = Hazardous
3 = Extreme danger, 4 = Deadly
Fire Hazard: 0 = Will not burn; 1 = Above 200 F; 2 = Above 100 F, not
not exceeding 200 F.; 3 = Below 73 F (Boiling pt at/above
100 F) and/or at/above 73 F. not exceeding 100 F;
4 = Below 73 F (Boiling pt. below 100 F)
Reactivity: 0 = Stable; 1 = Unstable if heated, 2 = Violent chemical
change; 3 = Shock and heat may detonate; 4 = May detonate

Date of Issue: 03/19/93

Date of Last Revision: 3/19/93

APP 0027

AmerPC 06830



Tastemaker

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

EMERGENCY PHONE NUMBER (513) 768-3650

M A T E R I A L S A F E T Y D A T A S H E E T

HAZARD RATINGS

Health - 1
Flammability - 1
Reactivity - 0

I. PRODUCT IDENTIFICATION

Name: NATURAL BUTTER FLAVOR WOLF #220108
Formula: Specific formulation withheld as a trade secret pursuant to provisions of 29 CFR 1910.1200 (f).
Synonym: N/A
CAS: N/A

II. PHYSICAL & CHEMICAL CHARACTERISTICS

| <u>Hazardous Ingredients</u> | <u>%</u> | <u>PEL</u> | | <u>TLV</u> | |
|------------------------------|----------|------------|--------------|------------|--------------|
| | | <u>ppm</u> | <u>mg/m3</u> | <u>ppm</u> | <u>mg/m3</u> |
| None | | | | | |

Appearance and Odor: A yellow paste with characteristic aroma
Specific Gravity (@ 20/20 C): N/A
Solubility in Water: Negative
Melting Point: N/A
Boiling Point: N/A
Vapor Pressure (@ 20 C): N/A
Vapor Density (air = 1): N/A

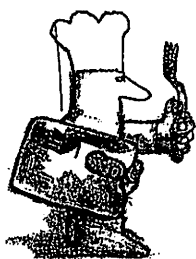
III. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

WARNING! MAY FORM FLAMMABLE DUST-AIR MIXTURES. STATIC CHARGES GENERATED BY EMPTYING PACKAGE MAY CAUSE FLASH FIRE. EMPTYING PACKAGE IN OR NEAR FLAMMABLE VAPORS MAY INCREASE THE CHANCE OF STATIC CHARGES CAUSING A FLASH FIRE. Avoid all ignition sources such as heat, spark and flame. Minimize the amount of dust in air by pouring material slowly into a conductive, ground chute. Do not remove or shake plastic liner. Ground operator and all equipment. Blanket receiving vessel with inert gas.

Flash Point (TCC; F): N/A
DOT Classification: Slightly Combustible
Extinguishing Media: CO(2) X Foam X Dry Chemical X
Special Fire Fighting Procedures: Use standard procedures and preferred extinguishing media above.
Unusual Fire & Explosion Hazards: Flammable dust when finely divided and suspended in air.
Hazardous Decomposition: None known
Incompatibility: Strong oxidizing agents
Hazardous Combustion Products: Burning generates CO, CO2, irritating smoke
Hazardous Polymerization: Will not occur

APP 0028

AmerPC 06815



Tastemaker

#220108

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

IV. SPILL & LEAK PROCEDURES

If Released or Spilled: Sweep up spilled material for disposal. Flush spill area with water spray.

Waste Disposal Method: CAUTION! Material on wet floor may be slippery. Incinerate or landfill in accordance with local, state, or federal regulations.

V. HEALTH HAZARD DATA

Permissible Exposure Limit (PEL): Not established

Threshold Limit Value (TLV): Not established

Possible Route(s) of Entry: Skin; eyes; ingestion; inhalation of vapors

Health Hazard Determination: This mixture has not been tested as a whole. None of the ingredients have been listed as a carcinogen by NTP (National Toxicology Program), OSHA (Occupational Safety & Health Administration); or IARC (International Agency for Research on Cancer). The mixture includes, however, ingredients at concentrations greater than or equal to 1% which, undiluted, could present the following hazards to health:

Skin/Eyes:

May be irritating to skin and eyes.

Ingestion:

No known health hazards.

Inhalation:

Inhalation is irritating to nose, throat, and lungs.

Misc:

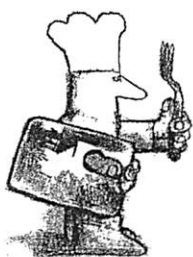
Medical Conditions Generally Recognized As Being Aggravated By Exposure: None known for normal conditions of use.

VI. EMERGENCY AND FIRST AID PROCEDURES

Eyes: Flush immediately with water for at least 15 minutes. Remove any contact lenses to ensure thorough flushing. Contact a physician as necessary.

Skin: Wash affected areas thoroughly with soap and water for at least 15 minutes. Remove any contaminated clothing or shoes; wash clothing before reuse. Contact a physician as necessary.

AmerPC 06816



Tastemaker

#220108

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

Ingestion: Give 1-2 glasses of water or milk to dilute the material. Seek medical attention immediately. Never give fluids or induce vomiting if person is unconscious, incoherent, or experiencing convulsions.
Inhalation: Remove to fresh air. If breathing has stopped, administer artificial respiration and oxygen if available. Contact a physician as necessary.

VII. APPLICABLE CONTROL MEASURES

Appropriate hygienic practices: Avoid contact with eyes, skin, and clothing. Wash thoroughly after handling. Avoid breathing fumes.

Personal protective equipment: Protective gloves, chemical splash goggles

Handling and storage precautions: Keep containers closed. Store in sprinklered warehouse. Keep temperature below 50 C (120 F) for quality control.

Engineering controls: Provide adequate ventilation. Eyewash fountains and safety showers should be easily accessible.

VIII. SECTION 313 SUPPLIER NOTIFICATION

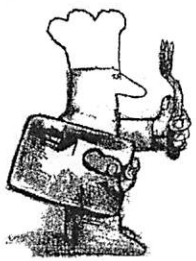
This product contains the following toxic chemicals subject to the reporting requirements of Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 and of 40 CFR 372:

| <u>Chemical</u> | <u>CAS #</u> | <u>% by Weight</u> |
|-----------------|--------------|--------------------|
| None | | |

IX. TASTEMAKER HEALTH RATINGS

The information contained herein is provided in good faith and is believed to be correct as of the date hereof. However, Tastemaker makes no representation as to the comprehensiveness or accuracy of the information. It is expected that individuals receiving the information will exercise their independent judgment in determining its appropriateness for a particular purpose. Accordingly, Tastemaker will not be responsible for damages of any kind resulting from the use or reliance upon such information.

AmerPC 06817



Tastemaker

#220108

110 E. 70th Street
Cincinnati, OH 45216
Telephone 513 948 8000
Facsimile 513 948 5435

NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, NO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER NATURE ARE MADE HEREUNDER WITH RESPECT TO THE INFORMATION SET FORTH HEREIN REGARDING THE PRODUCT TO WHICH THE INFORMATION REFERS.

Health Hazard: 0 = Normal material, 1 = Slightly hazardous, 2 = Hazardous
3 = Extreme danger, 4 = Deadly
Fire Hazard: 0 = Will not burn; 1 = Above 200 F; 2 = Above 100 F, not
not exceeding 200 F.; 3 = Below 73 F (Boiling pt at/above
100 F) and/or at/above 73 F. not exceeding 100 F;
4 = Below 73 F (Boiling pt. below 100 F)
Reactivity: 0 = Stable; 1 = Unstable if heated, 2 = Violent chemical
change; 3 = Shock and heat may detonate; 4 = May detonate

Date of Issue: 03/19/93

Date of Last Revision: 3/19/93

APP 0031

AmerPC 06818

Exhibit 5

FRIES & FRIES

The Flavormakers®

1199 Edison Drive / Cincinnati, Ohio 45216

NATURAL BUTTER FLAVOR W/NOF (LIGHT) #202944 (PA)
We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in a regulation of the Food & Drug Administration.

NON-FLAVOR INGREDIENTS: PARTIALLY HYDROGENATED
VEGETABLE OILS (SOYBEAN/COTTONSEED), MALTO
DEXTRIN.

American Pop Corn
Code # 11478
3-4-91

FRIES & FRIES, INC.

EXHIBIT

5

APP 0032

DATE: 2-2-93

CUSTOMER NAME: American Popcorn

CUST. # 94

PRODUCT: Natural Butter Flavor WOLF #247027 (SDB)

F. & F. CODE 22692 FLASH POINT

STENCIL THE FOLLOWING:

See Label Below

**USE LARGE LETTER SIZE STENCIL

LOT NUMBER _____
CUSTOMER CODE 4858
P.O. NUMBER _____
GROSS, TARE, NET (Y) (N)
WEIGHT IN GALLONS (Y) (N)
"FOOD GRADE" (Y) (N)
MANUFACTURE DATE (Y) (N)
OF CONTAINERS (Y) (N)
OTHER: _____

LABELING INSTRUCTIONS

RABBI STAMP LABELS (Y) (N)
INGREDIENT LABELS (Y) (N)
ADDRESS LABELS (Y) (N)
REQUIRES REFRIGERATION (Y) (N)
FLAMMABLE (Y) (N)
TAPE BAND (Y) (N)
SPECIAL INSTRUCTIONS: _____

QUALITY CONTROL REQUIREMENTS

COA (Y) (N)
MICROS (Y) (N)
MSDS (Y) (N)
*W/SHIPMENT (Y) MAIL (Y) FAX (Y)
PRESHIPMENT SAMPLE (Y) (N)
COSHIPMENT SAMPLE (Y) (N)
REQUIRES REFRIGERATION (Y) (N)
SPECIAL INSTRUCTIONS: _____

PACKAGING INSTRUCTIONS

TYPE OF DRUM: _____
TYPE OF PAIL: _____
IF COLORED WHAT COLOR: _____
TYPE OF JUG: 100 x 50#
PER EACH CONTAINER 100 x 50#
SLIP SHEETS (Y) (N) if app.
ON PALLETS (Y) (N) SIZE if app.
STRETCH WRAP (Y) (N)
PACKING LIST (Y) (N)
OTHER: _____

BILLING DEPT. NOTE:

SEND PACKING LIST W/INVOICE (Y) SEND COPY OF FRT. BILL W/INVOICE (Y)
SEND ADDITIONAL INVOICE TO: _____ SEND COPY OF B/L WITH INVOICE (Y)
OTHER: _____

SHIPPING INSTRUCTIONS

- SHIP VIA PPA

DOCK APPOINTMENT REQUIRED? (Y) (N) IF YES, MAKE NOTATION ON B/L
*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****
OTHER: _____

NATURAL BUTTER FLAVOR WOLF #247027 (SDB)

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in a regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH, CORN SYRUP
SOLIDS, PARTIALLY HYDROGENATED SOYBEAN OIL
TRICALCIUM PHOSPHATE.



Tastemaker

CUSTOMER ASSIGNED CODE:

American Popcorn

110 E. 70th Street Cincinnati OH 45216

APP 0032-a

DATE: _____ CUSTOMER NAME: American Popcorn CUST. # _____

PRODUCT: Nat WCNF Butter (SDB) 247028
F. & F. CODE 22031 FLASH POINT _____

STENCIL THE FOLLOWING: See Label Below

***USE LARGE LETTER SIZE STENCIL

LOT NUMBER _____
CUSTOMER CODE 057-82
P.O. NUMBER _____ (MVK)
GROSS TARE NET (Y) (N)
WEIGHT IN GALLONS (Y) (N)
"FOOD GRADE" (Y) (N)
MANUFACTURE DATE (Y) (N)
OF CONTAINERS (Y) (N)
OTHER: _____

LABELING INSTRUCTIONS

RABBI STAMP LABELS (Y) (N)
INGREDIENT LABELS (Y) (N)
ADDRESS LABELS (Y) (N)
REQUIRES REFRIGERATION (Y) (N)
FLAMMABLE (Y) (N)
TAPE BAND (Y) (N)
SPECIAL INSTRUCTIONS: Boile
tap on top of boxes

QUALITY CONTROL REQUIREMENTS

COA (Y) (N)
MICROS (Y) (N)
MSDS (Y) (N)
*W/SHIPMENT (Y) MAIL (Y) FAX (Y)
FRESHSHIPMENT SAMPLE (Y) (N)
COSHIPMENT SAMPLE (Y) (N)
REQUIRES REFRIGERATION (Y) (N)
SPECIAL INSTRUCTIONS: _____

PACKAGING INSTRUCTIONS

TYPE OF DRUM: _____
TYPE OF PAIL: _____
IF COLORED WHAT COLOR: _____
TYPE OF JUG: _____
PER EACH CONTAINER 2 @ 50#
SLIP SHEETS (Y) (N)
ON PALLETS (Y) (N) SIZE 7' x 4' app
STRETCH WRAP (Y) (N)
PACKING LIST (Y) (N)
OTHER: 2 @ 50# Bag per box

BILLING DEPT. NOTE:

SEND PACKING LIST W/INVOICE (Y) SEND COPY OF FRT. BILL W/INVOICE (Y)
SEND ADDITIONAL INVOICE TO: _____ SEND COPY OF S/L WITH INVOICE (Y)
OTHER: _____

SHIPPING INSTRUCTIONS

SHIP VIA PPS
DOCK APPOINTMENT REQUIRED? (Y) (N) IF YES, MAKE NOTATION ON S/L
*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****
OTHER: _____

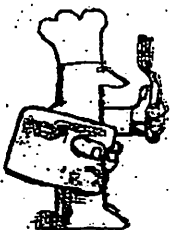
NATURAL BUTTER FLAVOR WCNF
#247028

(SDB)

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH,
CORN SYRUP SOLIDS, PARTIALLY HYDROGENATED
SOYBEAN OIL, TRICALCIUM PHOSPHATE.



Tastemaker

110 E. 70th Street Cincinnati OH 45216

APP 0032-b

DATE: _____ CUSTOMER NAME: American Popcorn CUST. # _____

PRODUCT: Not WOLF Butter (SDB) 247028
F. & F. CODE 22031 FLASH POINT _____

STENCIL THE FOLLOWING:

****USE LARGE LETTER SIZE STENCIL**

LOT NUMBER _____

CUSTOMER CODE 057-82

P.O. NUMBER 4866 / Rel 12/12

GROSS TARE NET ☒ (Y) ☒ (N)

WEIGHT IN GALLONS ☒ (Y) ☒ (N)

"FOOD GRADE" ☒ (Y) ☒ (N)

MANUFACTURE DATE ☒ (Y) ☒ (N)

OF CONTAINERS ☒ (Y) ☒ (N)

OTHER: _____

LABELING INSTRUCTIONS

RABBI STAMP LABELS ☒ (Y) ☒ (N)

INGREDIENT LABELS ☒ (Y) ☒ (N)

ADDRESS LABELS ☒ (Y) ☒ (N)

REQUIRES REFRIGERATION ☒ (Y) ☒ (N)

FLAMMABLE ☒ (Y) ☒ (N)

TAPE BAND ☒ (Y) ☒ (N)

SPECIAL INSTRUCTIONS Blue

tap on top of boxes

QUALITY CONTROL REQUIREMENTS

COA ☒ (Y) ☒ (N)

MICROS ☒ (Y) ☒ (N)

MSDS ☒ (Y) ☒ (N)

*W/SHIPMENT (Y) MAIL (Y) FAX (Y)

FRESHSHIPMENT SAMPLE ☒ (Y) ☒ (N)

COSHIPMENT SAMPLE ☒ (Y) ☒ (N)

REQUIRES REFRIGERATION ☒ (Y) ☒ (N)

SPECIAL INSTRUCTIONS: _____

PACKAGING INSTRUCTIONS

TYPE OF DRUM: _____

TYPE OF PAIL: _____

IF COLORED WHAT COLOR: _____

TYPE OF JUG: _____

PER EACH CONTAINER 2 @ 50# bag per box

SLIP SHEETS ☒ (Y) ☒ (N)

ON PALLETS ☒ (Y) ☒ (N) SIZE 7' x 4' app

STRETCH WRAP ☒ (Y) ☒ (N)

PACKING 2 @ 50# bag per box

OTHER: _____

BILLING DEPT. NOTES

SEND PACKING LIST W/INVOICE (Y) ☒ (Y) ☒ (N)

SEND COPY OF FRT. BILL W/INVOICE (Y) ☒ (Y) ☒ (N)

SEND ADDITIONAL INVOICE TO: _____

OTHER: _____

SHIPPING INSTRUCTIONS

- SHIP VIA PPA

BOOK APPOINTMENT REQUIRED? (Y) ☒ (Y) ☒ (N) IF YES, MAKE NOTATION ON B/L

*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****

OTHER: _____

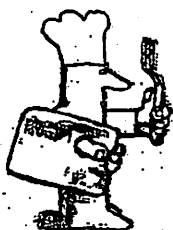
NATURAL BUTTER FLAVOR WOLF
#247028

(SDB)

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH,
CORN SYRUP SOLIDS, PARTIALLY HYDROGENATED
SOYBEAN OIL, TRICALCIUM PHOSPHATE.



Tastemaker

110 E. 70th Street Cincinnati OH 45216

APP 0032-c

DATE: _____ CUSTOMER NAME: American Popcorn CUST. # _____

PRODUCT: Nat WONF Butter (SDB) 247028
F. & F. CODE 22051 FLASH POINT _____

STENCIL THE FOLLOWING:

**USE LARGE LETTER SIZE STENCIL

LOT NUMBER _____

CUSTOMER CODE 057-82

P.O. NUMBER _____

GROSS TARE NET

WEIGHT IN GALLONS

"FOOD GRADE"

MANUFACTURE DATE

OF CONTAINERS

OTHER: _____

LABELING INSTRUCTIONS

RABBI STAMP LABELS

INGREDIENT LABELS

ADDRESS LABELS

REQUIRES REFRIGERATION

FLAMMABLE

TAPE BAND

SPECIAL INSTRUCTIONS

tap on top of boxes

QUALITY CONTROL REQUIREMENTS

COA

MICROS

MSDS

*W/SHIPMENT (Y) MAIL (Y) FAX (Y)

FRESHSHIPMENT SAMPLE

COSHIPMENT SAMPLE

REQUIRES REFRIGERATION

SPECIAL INSTRUCTIONS: _____

PACKAGING INSTRUCTIONS

TYPE OF DRUM: _____

TYPE OF PAIL: _____

IF COLORED WHAT COLOR: _____

TYPE OF JUG: _____

PER EACH CONTAINER

SLIP SHEETS (Y) (N)

ON PALLETS (Y) (N) SIZE

STRETCH WRAP (Y) (N)

PACKING TIES (Y) (N)

OTHER: _____

BILLING DEPT. NOTE:

SEND PACKING LIST W/INVOICE (Y)

SEND ADDITIONAL INVOICE TO: _____

OTHER: _____

SEND COPY OF FRT. BILL W/INVOICE (Y)

SEND COPY OF B/L WITH INVOICE (Y)

SHIPPING INSTRUCTIONS - SHIP VIA _____

DOCK APPOINTMENT REQUIRED? (Y) (N) IF YES, MAKE NOTATION ON B/L

*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****

OTHER: _____

NATURAL BUTTER FLAVOR WONF
#247028

(SDB)

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH,
CORN SYRUP SOLIDS, PARTIALLY HYDROGENATED
SOYBEAN OIL, TRICALCIUM PHOSPHATE.



Tastemaker

110 E. 70th Street Cincinnati OH 45216

APP 0032-d

DATE: _____ CUSTOMER NAME: American Popcorn CUST. # _____

PRODUCT: Nat WONF Butter (SDB) 247028
F. & F. CODE 281051 FLASH POINT: _____

See Label Below

STENCIL THE FOLLOWING:

**USE LARGE LETTER SIZE STENCIL

LOT NUMBER _____
CUSTOMER CODE 059-82
P.O. NUMBER _____
GROSS TARE NET ☒ (Y) ☐ (N)
WEIGHT IN GALLONS ☒ (Y) ☐ (N)
"FOOD GRADE" ☒ (Y) ☐ (N)
MANUFACTURE DATE ☒ (Y) ☐ (N)
OF CONTAINERS ☒ (Y) ☐ (N)
OTHER: _____

LABELING INSTRUCTIONS

FABBI STAMP LABELS ☒ (Y) ☐ (N)
INGREDIENT LABELS ☒ (Y) ☐ (N)
ADDRESS LABELS ☒ (Y) ☐ (N)
REQUIRES REFRIGERATION ☒ (Y) ☐ (N)
FLAMMALE ☒ (Y) ☐ (N)
TAPE BAND ☒ (Y) ☐ (N)
SPECIAL INSTRUCTIONS Butter
tap on top of boxes

QUALITY CONTROL REQUIREMENTS

COA ☒ (Y) ☐ (N)
MICROS ☒ (Y) ☐ (N)
MSDS ☒ (Y) ☐ (N)
*W/SHIPMENT (Y) MAIL (Y) FAX (Y)
PRESHIPMENT SAMPLE ☒ (Y) ☐ (N)
COSHIPMENT SAMPLE ☒ (Y) ☐ (N)
REQUIRES REFRIGERATION ☒ (Y) ☐ (N)
SPECIAL INSTRUCTIONS: _____

PACKAGING INSTRUCTIONS

TYPE OF DRUM: _____
TYPE OF PAIL: _____
IF COLORED WHAT COLOR: _____
TYPE OF JUG: _____
PER EACH CONTAINER: 1000
SLIP SHEETS ☒ (Y) ☐ (N)
CN PALLETS ☒ (Y) ☐ (N) SIZE 7' x 4' app
STRETCH WRAP ☒ (Y) ☐ (N)
PACKING LISTS ☒ (Y) ☐ (N)
OTHER: 2 @ 50# Bags per box

BILLING DEPT. NOTES:

SEND PACKING LIST W/INVOICE ☒ (Y) ☐ (N) SEND COPY OF FRT BILL W/INVOICE ☒ (Y) ☐ (N)
SEND ADDITIONAL INVOICE TO: _____
OTHER: _____

SHIPPING INSTRUCTIONS:

SHIP VIA: PPA

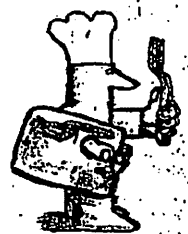
DOCK APPOINTMENT REQUIRED? ☒ (Y) ☐ (N) IF YES, MAKE NOTATION ON B/L
*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****
OTHER: _____

NATURAL BUTTER FLAVOR WONF (SDB)
#247028

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH,
CORN SYRUP SOLIDS, PARTIALLY HYDROGENATED
SOYBEAN OIL, TRICALCIUM PHOSPHATE.



Tastemaker

110 E. 70th Street Cincinnati OH 45216

APP 0032-e

DATE: CUSTOMER NAME: AMERICAN POPCORN CUST. #

PRODUCT: NOT WONF Butter (SDB) 247028
F. & F. CODE 24431 FLASH POINT

STENCIL THE FOLLOWING:

*USE LARGE LETTER SIZE STENCIL

LOT NUMBER

CUSTOMER CODE 052782

P.O. NUMBER 4876

GROSS TARE NET (Y) (N)

WEIGHT IN GALLONS (Y) (N)

"FOOD GRADE" (Y) (N)

MANUFACTURE DATE (Y) (N)

OF CONTAINERS (Y) (N)

OTHER:

LABELING INSTRUCTIONS

RABBIT STAMP LABELS (Y) (N)

INGREDIENT LABELS (Y) (N)

ADDRESS LABELS (Y) (N)

REQUIRES REFRIGERATION (Y) (N)

FLAMMABLE (Y) (N)

TAPE BAND (Y) (N)

SPECIAL INSTRUCTIONS:

QUALITY CONTROL REQUIREMENTS

COA (Y) (N)

MICROS (Y) (N)

MSDS (Y) (N)

*W/SHIPMENT (Y) MAIL (Y) FAX (Y)

FRESHSHIPMENT SAMPLE (Y) (N)

COSHIPMENT SAMPLE (Y) (N)

REQUIRES REFRIGERATION (Y) (N)

SPECIAL INSTRUCTIONS:

PACKAGING INSTRUCTIONS

TYPE OF DRUM:

TYPE OF PAIL:

IF COLORED WHAT COLOR:

TYPE OF JUG:

PER EACH CONTAINER

SLIP SHEETS (Y) (N)

ON PALLETS (Y) (N) SIZE

STRETCH WRAP (Y) (N)

PACKING LIST (Y) (N)

OTHER:

BILLING DEPT. NOTE:

SEND PACKING LIST W/INVOICE (Y)

SEND COPY OF FRT. BILL W/INVOICE (Y)

SEND ADDITIONAL INVOICE TO:

SEND COPY OF B/L WITH INVOICE (Y)

OTHER:

SHIPPING INSTRUCTIONS

- SHIP VIA

DOCK APPOINTMENT REQUIRED? (Y) (N) IF YES, MAKE NOTATION ON B/L

*****SEE ABOVE FOR DOCUMENTS WHICH SHOULD GO WITH SHIPMENT*****

OTHER:

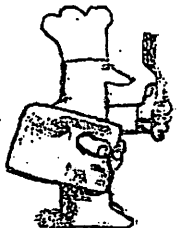
NATURAL BUTTER FLAVOR WONF
#247028

(SDB)

We certify that all flavor ingredients contained in this product are listed as being generally recognized as safe on a reliable published industry association (F.E.M.A.) list, and/or are approved for use in regulation of the Food & Drug Administration.

Non-Flavor Ingredients:

MALTODEXTRIN, MODIFIED CORNSTARCH,
CORN SYRUP SOLIDS, PARTIALLY HYDROGENATED
SOYBEAN OIL, TRICALCIUM PHOSPHATE.



Tastemaker

110 E. 70th Street Cincinnati OH 45216

APP 0032-f

Exhibit 6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

KEVIN REMMES,) Case No. 5:04-cv-04061-MWB
)
Plaintiff,)
)
vs.)
)
INTERNATIONAL FLAVORS &)
FRAGRANCES, INC., ET AL.,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF GREG HOFFMAN

Taken on behalf of the defendants at 701 Pierce
Street, Suite 200, Sioux City, Iowa, on Wednesday,
November 30, 2005, at 1:05 p.m.

* * * * *

Court Reporter: Denise R. Leonard-Derby, CSR, RPR
Siouxland Reporting Service
PO Box 2241
Sioux City, Iowa 51104
(712) 252-5208

* * * * *

Videographer: Jay Rollins of American Legal Media
1-888-757-5551

EXHIBIT

APP 0033

APPEARANCES

For the Plaintiff:

MR. STEVEN E. CRICK
Attorney at Law
Humphrey, Farrington & McClain, P.C.
221 W. Lexington, Suite 400
Independence, Missouri 64050
(816)836-5050
sec@hfmlegal.com

For International Flavors & Fragrances, Inc.:

MS. MARY JO MIDDELHOFF
Attorney at Law
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202
(513) 977-8622
middelho@dinslaw.com

For Flavors of North America, Inc.:

MR. RONALD B. LEE
Attorney at Law
Roetzel & Andress
222 South Main Street
Akron, Ohio 44308
(330) 849-6648
rlee@ralaw.com

For Givaudan Flavors Corporation:

MR. DAMOND R. MACE
Attorney at Law
Squire, Sanders & Dempsey LLP
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114
(216) 479-8500
dmace@ssd.com

APPEARANCES (Continued)

For Sensient Flavors, Inc.:

MR. PAUL E. BENSON
Attorney at Law
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202
(414) 225-2757
pebenson@michaelbest.com

MR. MAURICE B. NIELAND
Attorney at Law
Rawlings, Nieland, Probasco, Killinger,
Ellwanger, Jacobs & Mohrhauser
522 4th Street, Suite 300
Sioux City, Iowa 51101
(712) 277-2373

For The American Pop Corn Company:

MR. JEFFREY L. POULSON
Attorney at Law
Corbett, Anderson, Corbett, Poulson &
Vellinga, LLP
400 Security National Bank Building
423 6th Street
Sioux City, Iowa 51101
(712) 277-1261
jpoulson@corbettanderson.com

CONTENTS

| | Page |
|---|------|
| Examination by Mr. Mace | 9 |
| Recess, 2:35 p.m. to 2:45 p.m. | 66 |
| Examination by Ms. Middelhoff | 121 |
| Recess, 4:15 p.m. to 4:20 p.m. | 128 |
| Examination by Mr. Lee | 132 |
| Examination by Mr. Benson | 153 |
| Recess, 5:25 to 5:30 p.m. | 176 |
| Proceedings adjourned 5:30 p.m., 11/30/05 | 176 |
| Proceedings resumed 8:05 a.m., 12/1/05 | 176 |
| Examination (Continued) by Mr. Benson | 176 |
| Examination by Mr. Crick | 195 |
| Recess, 9:05 a.m. to 9:10 a.m. | 218 |
| Further Examination by Mr. Mace | 253 |
| Recess, 10:10 a.m. to 10:15 a.m. | 263 |
| Further Examination by Ms. Middelhoff | 286 |
| Further Examination by Mr. Lee | 287 |
| Further Examination by Mr. Benson | 292 |
| Further Examination by Mr. Crick | 296 |
| Addendum to Deposition | 300 |
| Certificate of Deponent | 301 |
| Certificate of Reporter | 302 |
| * * * * | |

INDEX TO EXHIBITS

| Number and Description | First Referenced |
|--|------------------|
| 1 - May 30, 2002 letter | 23 |
| 2 - NIOSH Health Hazard Evaluation Report | 24 |
| 3 - May 10, 2004 Loss Prevention Services Report | 27 |
| 4 - Kevin Remmes wage schedule | 30 |
| 5 - Formulas | 40 |
| 6 - Ingredients Batching System | 43 |
| 7 - Cargill Salt MSDS | 59 |
| 8 - Summary of emission points | 66 |
| 9 - Document indicating #3g) | 72 |
| 10 - Popcorn board ad hoc committee meeting notes | 84 |
| 11 - Agenda for The Popcorn Board, 8/20 | 95 |
| 12 - Agenda for The Popcorn Board, 12/4/03 | 100 |
| 13 - Respiratory Protection Program Pulmonary Function Testing | 147 |
| 14 - American Pop Corn management | 158 |
| 15 - Document indicating #3c) | 159 |
| 16 - Butter Flavor Alert Timeline | 162 |
| 17 - Document indicating #19 | 164 |
| 18 - Food Establishment Inspection | 205 |
| 19 - Memo from Orthodox Union, 12/26/00 | 207 |

| | | | | |
|----|---|------------------|----|--|
| 1 | Number and Description | First Referenced | 1 | THE VIDEOGRAPHER: This is the beginning of |
| 2 | 20 - Iowa Dept. of Agriculture and Land Stewardship | 214 | 2 | Videotape Number 1. I'm your videographer, Jay |
| 3 | 21 - Photographs numbered 1-33 | 217 | 3 | Rollins. I represent American Legal Media in |
| 4 | 22 - Abstract | 227 | 4 | Moorhead, Iowa. I'm not financially interested in |
| 5 | 23 - Letter from Tastemaker to Dr. Lockey, 7/10/95 | 230 | 5 | this action; nor am I a relative or employee of any |
| 6 | 24 - Memo of Dr. Lockey | 231 | 6 | attorney of any of the parties. The date is |
| 7 | 25 - Handwritten Givaudan records dated November 1992 | 234 | 7 | November 30th, year 2005. The time is 1:05 p.m. |
| 8 | 26 - Handwritten records indicating 3502 on top | 235 | 8 | This deposition is taking place at the |
| 9 | 27 - Diacetyl FCC MSDS | 236 | 9 | Heidman Law Firm, 701 Pierce Street, Sioux City, |
| 10 | 28 - Toxicology report | 236 | 10 | Iowa. The case number is 5:04-cv-04061-MWB entitled |
| 11 | 29 - NIOSHTIC document | 238 | 11 | Kevin Remmes versus International Flavors and |
| 12 | 30 - Raw Material Sensitivity List | 239 | 12 | Fragrances, Incorporated. |
| 13 | 31 - Handwritten document "John & Dan" | 240 | 13 | Your court reporter is Denise Leonard from |
| 14 | 32 - FEMA's Respiratory Safety in the Flavor and Fragrance Workplace | 242 | 14 | Siouxland Court Reporting in Sioux City, Iowa. |
| 15 | 33 - Nametags for registrants of respiratory safety workshop, 3/27/97 | 243 | 15 | Counsel will now introduce themselves. |
| 16 | 34 - MSDS for natural and artificial butter flavor from Givaudan | 244 | 16 | MR. CRICK: Steven Crick for the |
| 17 | 35 - MSDS for Item #297373 from Givaudan | 245 | 17 | plaintiffs. |
| 18 | 36 - Respiratory Protection Program Pulmonary Function Testing | 256 | 18 | MR. POULSON: Jeffrey Poulson representing |
| 19 | 37 - Floor plan by Davy McKee Corporation | 262 | 19 | American Pop Corn Company. |
| 20 | 38 - Shipping document from Givaudan to American Pop Corn Company | 272 | 20 | MR. BENSON: Paul Benson on behalf of |
| 21 | | | 21 | Sensient Flavors. |
| 22 | | | 22 | MR. LEE: Ron Lee on behalf of Flavors of |
| 23 | | | 23 | North America. |
| 24 | | | 24 | MR. NIELAND: Maurice Nieland on behalf of |
| 25 | | | 25 | Sensient. |
| 6 | | | 8 | |
| 1 | Number and Description | First Referenced | 1 | MS. MIDDELHOFF: Mary Jo Middelhoff for |
| 2 | 40 - MSDS for Item #297369 from Givaudan | 277 | 2 | International Flavors and Fragrances. |
| 3 | 41 - Iowa Department of Employment Services | 283 | 3 | MR. MACE: Damond Mace on behalf of |
| 4 | 42 - Letter to Ms. Bryant from Mr. Bruyer | 285 | 4 | Givaudan Flavors Corporation. |
| 5 | 43 - FONA documents | 296 | 5 | GREG HOFFMAN, |
| 6 | | | 6 | having been first duly sworn, testified as follows: |
| 7 | | | 7 | EXAMINATION |
| 8 | | | 8 | BY MR. MACE: |
| 9 | | | 9 | Q Good afternoon, Mr. Hoffman. |
| 10 | | | 10 | A Good afternoon. |
| 11 | | | 11 | Q Have you ever been deposed before? |
| 12 | | | 12 | A No, sir. |
| 13 | | | 13 | Q All right. Just a few ground rules. As |
| 14 | | | 14 | you can see, you're being videotaped, but it's also |
| 15 | | | 15 | important that you answer the questions orally, not |
| 16 | | | 16 | just with nods of the head, okay? |
| 17 | | | 17 | A Very good. |
| 18 | | | 18 | Q And it's important that you understand our |
| 19 | | | 19 | questions. If you don't understand one of our |
| 20 | | | 20 | questions, will you please let us know? |
| 21 | | | 21 | A Yes, sir. |
| 22 | | | 22 | Q And if you need a break at any time, just |
| 23 | | | 23 | let us know. But we would ask that you give us a few |
| 24 | | | 24 | minutes' warning so we don't have to break in the |
| 25 | | | 25 | middle of something, all right? |
| 7 | | | 9 | |

1 inspection report. Is this an example of an
2 inspection report for your plant?

3 MR. MACE: Do you have copies, Counsel?

4 MR. CRICK: You know, these first couple I
5 don't. And I'll show it to you.

6 A This particular one references our plant in
7 Schaller, Iowa. This is not our Sioux City plant.

8 Q (By Mr. Crick) Could I see that?

9 A Sure.

10 Q This is the type of inspection that takes
11 place for the Sioux City plant, though; is that
12 correct?

13 A With all due respect, this is a 1982 form.
14 The more recent and current ones are actually a lot
15 more involved than this.

16 Q Is that right? And that one's looking for
17 plant cleanliness. They're asking if there's any
18 ventilation in the plant, if there's any toxic
19 materials that are being used, all as far as back as
20 '82?

21 A Correct.

22 Q And the inspections today are even more
23 specific and intense; is that right?

24 MR. MACE: Objection. Leading.

25 A Yes, sir.

206

1 Q And I'm sure that's something you're proud
2 of, showing them what the interior of your plant is
3 as a selling point in asking them to buy your
4 popcorn?

5 A The primary difference is that we work
6 through a network of brokers, and so it's more of a
7 showing our brokers what we represent. And then it's
8 their responsibility to sell to it to the customer.

9 Q But you have the brokers who are able to
10 come and see where and how your product is made?

11 A Yes, sir.

12 Q To see if it meets their satisfaction for
13 them to be able to then present it to their clients?

14 A That's correct.

15 Q In addition to all of these folks, some of
16 the butter flavoring company employees have also been
17 to your plant; is that right?

18 A That's correct.

19 Q Givaudan employees have been to your plant;
20 is that correct?

21 A Yes, sir.

22 Q Flavors of North America, have their
23 employees been to your plant?

24 A Yes, sir.

25 Q Sensient, have their employees been at your

208

1 Q (By Mr. Crick) Let me show you Exhibit
2 Number 19. Can you tell me what that is?

3 A This is the format for our relationship
4 with our Orthodox Union. And this is a verification
5 of actually a certification coming from them on our
6 products.

7 Q Now, American Pop Corn sells some products
8 that are kosher; is that right?

9 A That's correct.

10 Q And so in order to get the kosher label,
11 the Orthodox Union does an inspection; is that right?

12 A That is correct.

13 Q And they bring in persons with experience
14 in food preparation to be able to inspect your plant?

15 A That's correct.

16 Q Now, you listed off a number of
17 organizations that did inspections. In addition,
18 Curtis Salter has done an inspection of your plant;
19 is that right? He was an industrial hygienist for
20 your workers' compensation.

21 A That's correct, yes.

22 Q Besides the organizations and your insurer,
23 customers periodically will come to your plant, too;
24 is that right?

25 A Quite frequently, yes.

207

1 plant?

2 A Yes, sir.

3 Q These companies, were they all aware that
4 their butter flavorings were being used to make
5 microwave popcorn?

6 A Yes, sir.

7 Q That's why the butter flavorings were
8 purchased in the first place was for microwave
9 popcorn?

10 MR. MACE: Objection. Leading.

11 A That's correct.

12 Q (By Mr. Crick) And were these butter
13 flavoring products actually made for American Pop
14 Corn?

15 A In most cases, yes.

16 MR. BENSON: Attorney Crick, while there's
17 just a second, can we have an agreement on the record
18 that if one objects, that's an objection for everyone
19 so that --

20 MR. CRICK: Yes.

21 MR. BENSON: -- we don't have four
22 people --

23 MR. CRICK: Yes.

24 MR. BENSON: Okay.

25 Q (By Mr. Crick) Before NIOSH came to your

209

1 plant, did anyone from Givaudan ever tell you that
2 its butter flavoring product could cause permanent
3 lung injury?

4 MR. MACE: Objection.

5 MR. LEE: Objection.

6 A Not that I'm aware of.

7 Q (By Mr. Crick) Before NIOSH came to the
8 plant, did anyone from Sensient ever tell you that
9 its butter flavoring could cause permanent lung
10 injury?

11 A Not that I am aware of.

12 Q Before NIOSH came to the plant, did anyone
13 from Flavors of North America ever tell you that
14 their butter flavoring could cause permanent lung
15 injury?

16 MR. LEE: Objection.

17 A Not that I'm aware of.

18 Q (By Mr. Crick) Now, you testified earlier
19 that your employees began wearing respirators around
20 the time of the 1990-1991 incident that took place in
21 the mixing tank.

22 A Correct.

23 Q And that several employees had developed
24 some severe eye irritation and burns on their eyes.

25 A That's correct.

210

1 having?

2 MR. MACE: Objection. Foundation.

3 A I would ask Dale Hartshorn that question.

4 Q (By Mr. Crick) Nobody from Givaudan gave
5 you any information that said our product could cause
6 a serious injury to your customers?

7 MR. MACE: Objection.

8 A Not that I'm aware of, sir.

9 Q (By Mr. Crick) In any event, without any
10 information from the butter flavoring suppliers, your
11 company started suggesting that masks or respirators
12 be used in the mixing area?

13 MR. LEE: Objection.

14 MS. MIDDELHOFF: Objection.

15 MR. MACE: Objection.

16 A That's correct.

17 Q (By Mr. Crick) And that was for eye
18 protection in the main?

19 A Yes.

20 Q Now, you subsequently started having
21 pulmonary function tests of your employees in '97,
22 about six years later?

23 A Correct.

24 Q The reason that the pulmonary function
25 tests were conducted in '97 was because your doctor

212

1 Q Your position at that time was what?

2 A I really had no direct contact with the
3 microwave at that point. I was still in the field
4 department.

5 Q Who would have had more of a direct role in
6 looking into the issues that happened in that tank
7 that day?

8 A My direct boss, Larry Bruyer and Dale
9 Hartshorn.

10 Q Now, yesterday you testified that the
11 company had contacted the salt supplier –

12 A Mm-hmm (Yes).

13 Q – to see if that product had caused the
14 problem?

15 A Yes, sir.

16 Q And you found out that they had not had any
17 experience with salt causing eye burns like that?

18 A That is correct.

19 MR. MACE: Object to the hearsay. Move to
20 strike.

21 Q (By Mr. Crick) Was the intent at that time
22 to try to investigate with all the ingredient
23 suppliers that were in the tanks on that day to try
24 to figure out if their products could have
25 contributed to the injuries your employees were

211

1 recognized that in order to be properly fit tested
2 for a respirator, you needed to have a pulmonary
3 function test; is that right?

4 MR. MACE: Objection.

5 A I think that was one of the criteria for
6 that decision, yes.

7 Q (By Mr. Crick) Now, at American Pop Corn
8 you had safety meetings?

9 A Yes, sir.

10 Q You posted safety information on a board at
11 the plant for people to see?

12 A Not on a regular basis, but as needed, yes,
13 sir.

14 Q And you made the MSDS sheets available for
15 people to see?

16 A Yes, sir.

17 Q You had ventilation in the building?

18 A Yes, sir.

19 Q As far as you knew, you were doing all the
20 proper things that you needed to do to keep the
21 building in a good, safe, usable fashion?

22 A Yes.

23 Q Nobody from any flavoring company ever
24 suggested you needed a different type of ventilation,
25 did they?

213

1 record.
2 * * *
3 (Recess taken from 9:05 a.m. to 9:10 a.m.)
4 * * *
5 THE VIDEOGRAPHER: Counsel, we're back on
6 the record.
7 MR. POULSON: Before we go any further, the
8 witness was presented some pictures, and included
9 within these pictures -- and I'm referring to
10 Exhibits Number 10, 13, 16, 17, 18, 19, 20, 21, 22,
11 24, 25, 26, and 27 are pictures of what appears to be
12 buckets containing -- buckets and other containers
13 containing Givaudan products. The labels on these
14 buckets show very specific ingredients. These
15 ingredients are especially formulated for my client's
16 products and are considered to be proprietary and
17 should be considered confidential.
18 **Q (By Mr. Crick) Exhibit 21, these -- just to**
19 **restate my question, these are pictures of the**
20 **interior of the American Pop Corn plant?**
21 A Yes, sir.
22 MR. MACE: To address Mr. Poulson's
23 concern, I think there is on the second page of the
24 labels, Counsel, some blank ones. I suggest you put
25 one on the cover of that and write the word

218

1 "confidential" so that it's been marked under the
2 order.
3 MR. CRICK: I don't have any problem doing
4 that.
5 MR. MACE: Let's do it now so it doesn't
6 get missed. Would you hand me the labels back.
7 * * *
8 (Document marked confidential.)
9 * * *
10 MR. POULSON: Thank you.
11 **Q (By Mr. Crick) Photographs 4, 5, 6, 7,**
12 **these show -- what do those show?**
13 A They show the interior of our current
14 mixing room and some of the mixing and blending
15 tanks.
16 **Q Is that the room Mr. Remmes would have**
17 **worked in?**
18 A That's correct.
19 **Q And it shows the lid being opened and**
20 **someone -- is that where the ingredients would be**
21 **inserted?**
22 A In some cases. In Picture Number 9, that
23 is the DynaShear, the piece of equipment I referred
24 to that actually helps distribute some of the flavors
25 as well.

219

1 **Q That's for the salt?**
2 A That's for the salt primarily, yes, sir.
3 **Q Photograph Number 5, the gentleman working**
4 **by the mixer, what's he wearing over his head?**
5 A He's wearing an air supplied hooded
6 respiratory protection device.
7 **Q Now, no one from a flavoring company ever**
8 **suggested that you needed to wear a hooded air supply**
9 **respirator; is that right?**
10 A That's correct.
11 **Q Now, your counsel read off some numbers.**
12 **There's some photographs of butter flavoring packages**
13 **in this group; is that right?**
14 A That's correct.
15 **Q Looking at Photograph Number 10, is that a**
16 **photograph of the Flavors of North America bucket?**
17 A That's correct.
18 MR. LEE: Objection.
19 **Q (By Mr. Crick) Do you see any kind of a**
20 **warning on that bucket?**
21 MR. LEE: Objection.
22 A I can't read the fine print, but nothing
23 that's bold enough and large enough for me to read.
24 **Q (By Mr. Crick) Let's look at Photograph**
25 **Number 20. Is that a closeup of a Flavors of North**

220

1 **America label?**
2 MR. LEE: Objection.
3 A Yes, sir.
4 **Q (By Mr. Crick) Do you see a warning**
5 **anywhere in that?**
6 A No, sir.
7 MR. LEE: Again, objection.
8 **Q (By Mr. Crick) Seventeen. Is this a**
9 **Givaudan bucket?**
10 A Yes, sir.
11 **Q Now, there is a warning on that bucket. Do**
12 **you see that?**
13 A Yes, I do.
14 **Q And it says children can fall in bucket and**
15 **drown. Do you see that?**
16 A Yes, sir. I see that picture, yes.
17 **Q And they have that -- they have a**
18 **photograph and there's some language and -- or some**
19 **wording in three different languages below that**
20 **picture?**
21 A Yes, sir.
22 **Q Have you ever seen a warning on a Givaudan**
23 **bucket that inhaling butter flavor fumes can cause**
24 **permanent serious lung injury?**
25 MR. MACE: Objection.

221

1 A Not specific to that, sir.
2 Q (By Mr. Crick) Now, there's a warning that
3 children may drown. Do you have any children that
4 work with the butter flavorings at American Pop Corn?
5 A No, sir.
6 Q And on Photographs 24, 23, 25, 26, these
7 are all photographs from another Givaudan product; is
8 that right?
9 A Yes, sir.
10 Q And there's a -- one of the photographs
11 shows a flammable label. Do you see that?
12 A Yes, sir.
13 Q Do you see any warning that the product can
14 cause serious lung injury?
15 MR. MACE: Objection.
16 A I'm not sure what the codes above the
17 flammable liquid represent.
18 Q (By Mr. Crick) They didn't tell you that
19 meant a serious lung injury, though?
20 MR. MACE: Objection.
21 A Not verbally.
22 Q (By Mr. Crick) And if you just look through
23 the photographs that we have in here of the packages
24 and tell me if you see any packages that have a
25 warning about serious lung injury?

222

1 A No, sir.
2 Q In addition to receiving buckets and
3 packages of product from the flavoring companies,
4 American Pop Corn would have received written
5 materials from the companies on occasion; is that
6 right?
7 A That is correct.
8 Q And that could include invoices?
9 A Correct.
10 Q Or other shipping materials that accompany
11 the products?
12 A Yes.
13 Q And on occasion the actual written
14 communications?
15 A Certificate of analysis, yes, sir. All
16 kinds of things.
17 Q In any of those written communications
18 you've received from any butter flavoring company,
19 have you ever seen any statement that says that
20 exposure to their butter flavoring product can cause
21 serious permanent lung injury?
22 MR. MACE: Objection.
23 A Recent MSDSs from IFF have indicated that.
24 Q (By Mr. Crick) And that would be within the
25 last year?

223

1 A Yeah. Roughly, yes.
2 Q And before that?
3 A No, sir.
4 Q Have you spoken to the butter flavoring
5 companies about this lung injury issue since the
6 NIOSH issue came about?
7 A Please ask that question again. I'm sorry.
8 Q NIOSH came to your plant.
9 A Yes, sir.
10 Q Before that time, you'd never spoken to --
11 no one from a butter flavoring company had ever
12 really talked to you about its products causing
13 severe lung injury?
14 MR. MACE: Objection.
15 MR. LEE: Objection.
16 A Not to me personally, no.
17 Q (By Mr. Crick) Since that time, have you
18 had any discussions about this issue with any of the
19 butter flavoring companies?
20 A Yes. In general terms, yes.
21 Q And can you tell me, who did you talk to?
22 A Typically the sales representatives that
23 would come in on a fairly regular basis. I must say
24 that, again, I personally am not that involved with
25 the day-to-day ordering or purchasing of the flavors.

224

1 And when lot of this information first came out, I
2 would be asked occasionally to come into a meeting
3 with the different flavor company sales personnel,
4 and this was discussed on a very general basis. But
5 clearly not very much of it was discussed in depth.
6 Q What did you learn from the flavoring
7 companies when this issue was discussed?
8 A Very little.
9 Q Did they agree that their products can
10 cause lung injury?
11 MR. MACE: Objection.
12 MR. LEE: Objection.
13 A No, sir.
14 Q (By Mr. Crick) Did they deny it?
15 MR. MACE: Objection.
16 MR. BENSON: Objection.
17 MR. LEE: Objection.
18 A In several cases, yes.
19 Q (By Mr. Crick) Did they give you any advice
20 as to what precautions should be taken working around
21 their flavoring product?
22 MR. MACE: Objection.
23 A The tone was more of continue doing what
24 you're doing.
25 Q (By Mr. Crick) Did any of the flavoring

225

1 A Mm-hmm (Yes).

2 Q Did you go to that?

3 A No, sir.

4 Q Okay. But apparently Mr. Smith might have

5 gone to that?

6 A Carlton, I believe, attended, yeah.

7 Q You don't know anything about this seminar

8 particularly, though?

9 A I know more about it now how it's currently

10 being run. I have no idea how it was done then.

11 Q Does Flavors of North America have a

12 periodic seminar?

13 A Yes, sir.

14 Q Have you been to any of those?

15 A I have not personally attended any of the

16 Flavor 101 or 201 series.

17 MR. CRICK: Okay. Thank you.

18 THE WITNESS: Yes.

19 MR. LEE: Mr. Crick, you know what it was?

20 I only pulled documents while your client worked

21 there.

22 MR. CRICK: Okay.

23 MR. LEE: That's the ones I have. That's

24 why.

25 MR. CRICK: Thank you very much.

298

1 MR. MACE: Thanks for your time,

2 Mr. Hoffman.

3 THE WITNESS: Yes.

4 THE VIDEOGRAPHER: This is the end of

5 Videotape Number 4. Counsel, we're off the record.

6 * * *

7 END OF PROCEEDINGS AT 11:00 a.m., 12/1/05.

8 * * *

299

1 CASE NAME: Remmes v. IFF, et al

2 ADDENDUM TO DEPOSITION

3 Page Line Change and Reason

4

5

6

7

8

9

10

11

12

13

14 To all of which I affix my signature this ____ day

15 of _____, _____, at the City of _____,

16 State of _____.

17

18 DEPONENT

19 I did witness the above signature on the ____ day of

20 _____, _____, in the City of _____, State

21 of _____.

22

23 NOTARY PUBLIC

24

25

300

1 Case name: Remmes v. IFF, et al

2 CERTIFICATE OF DEPONENT

3 I, the undersigned deponent, do hereby

4 certify under oath that I did read the foregoing

5 pages of transcript and that any corrections I want

6 to make to the foregoing pages of transcript have

7 been set out on the foregoing Addendum, and that I

8 have indicated the correction itself, the page and

9 line number of the correction, and the reason for the

10 correction, if any.

11 In witness whereof, I have hereunto affixed

12 my signature on this ____ day of _____,

13 _____, before the undersigned Notary Public.

14

15

16 DEPONENT

17 I hereby certify I did witness the above signature on

18 this the ____ day of _____, _____, in the City of

19 _____, County of _____, State of

20 _____.

21

22

23 NOTARY PUBLIC

24 My commission expires:

25 _____.

301

1 CERTIFICATE OF REPORTER

2
3 I, Denise R. Leonard-Derby, Certified
4 Shorthand Reporter in and for the State of Iowa, do
5 hereby certify as follows:

6 1. That the deponent aforementioned was duly
7 sworn prior to the taking of this deposition.

8 2. That I took down in shorthand correctly
9 the testimony of said deponent and have caused the
10 same to be transcribed, and that this deposition is a
11 true and correct record of the testimony given by
12 said deponent at the time I affix my signature to
13 this certificate.

14 3. That the total cost for reporting and
15 transcribing is in the sum of \$ _____, said sum
16 to be advanced and paid to Siouxland Reporting
17 Service, PO Box 2241, Sioux City, Iowa 51104, prior
18 to the use of said deposition at trial by Mr. Damond
19 Mace.

20 4. That the original transcript of this
21 deposition is to be filed with Mr. Damond Mace.

22 5. That a copy is to be delivered to
23 Mr. Damond Mace, Ms. Mary Jo Middelhoff, Mr. Ronald
24 Lee, Mr. Paul Benson, Mr. Jeffrey Poulson, and
25 Mr. Steven Crick.

302

1 6. I further certify that I am not related
2 by consanguinity or affinity within the fourth degree
3 to any party, his attorney, or any employee of any of
4 them; that I am not financially interested in this
5 action, and that I am not the attorney or employee of
6 any party.

7 7. Exhibits 1 through and including 43 were
8 filed with the original transcript and a copy was
9 provided with each of the copies.

10 To all of which I have verily affixed my
11 signature this _____ day of _____, ____.

12
13
14 DENISE R. LEONARD-DERBY, CSR, RPR
15 Siouxland Reporting Service
16 PO Box 2241
17 Sioux City, Iowa 51104
18 (712) 252-5208
19
20
21
22
23
24
25

303

Exhibit 7

return to Dale

April 18, 1990

Mr. Dale Hartshorn
AMERICAN POPCORN COMPANY
4332 Grant Ave.
Sioux City, IA 51102

Dear Mr. Hartshorn:

This letter is in response to your request for information on Fries & Fries flavor components diacetyl and delta decalactone and their regulatory status in West Germany.

Diacetyl is a ketone derived from fractional distillation of a fermentation product of glucose. It is a natural substance which has been found to occur in a variety of fruits, vegetables, breads, meats and dairy products. Concentrations of 0.3-2.2 ppm have been detected in butter, 4.0-5.2 ppm in wine and 15 ppm in cognac and whiskey.

In the United States, diacetyl has been deemed to be Generally Recognized as Safe (GRAS) as indicated by its designated FEMA #, 2370. It is approved for food use as defined in 21 CFR 184.1278 and meets FCC specifications. It has been given Council of Europe #752.

Delta decalactone is a nature identical cyclic ester. It has been identified as a natural constituent of coconuts, dairy products, animal fats, tea and rum. Butterfat contains about 9 ppm of the lactone and up to 7000 ppm has been detected in peaches.

Delta decalactone is approved for food use in the United States according to 21 CFR 172.515 and meets FCC specifications. It is recognized as GRAS by its FEMA #2361 and has also been assigned #621 by the Council of Europe.

With regard to the legal status of these chemicals, under West German law flavor substances are regulated according to their classification as either natural, nature identical or artificial. Thus, if a flavor is natural or nature identical, it is not regarded or regulated as a food additive per se. Such substances may be used without restriction as long as they are used in accordance with good manufacturing practices and do not appear on a "negative" or restricted list of natural or nature identical flavor substances. Neither diacetyl nor delta decalactone are found on such a list.

EXHIBIT

7

AmerPC 07877

"An Operating Unit of Mallinckrodt, Inc."

APP 0042

AMERPC007877

Considering the GRAS status of these substances according to United States regulations and the classification of these materials as being either natural or nature identical, both diacetyl and delta decalactone comply with the regulations for use as flavoring components in West Germany.

If you have any questions or are in need of further assistance please do not hesitate to contact me at (513) 948-3569.

Sincerely,

Joanne O. Lawson

Joanne O. Lawson
Regulatory Department

Enclosures

cc: S. Appleton
File

AmerPC 07878

"An Operating Unit of Mallinckrodt, Inc."

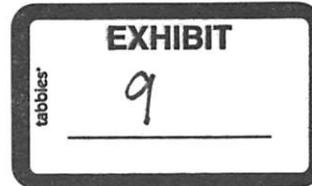
APP 0043

AMERPC007878

Exhibit 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

KEVIN REMMES,) Case No. 5:04-cv-04061-MWB
)
Plaintiff,)
)
vs.)
)
INTERNATIONAL FLAVORS &)
FRAGRANCES, INC., ET AL.,)
)
Defendants.)



VIDEOTAPED DEPOSITION OF DALE HARTSHORN

Taken on behalf of the defendants at 701 Pierce
Street, Suite 200, Sioux City, Iowa, on Thursday,
December 1, 2005, at 1:40 p.m.

* * * *

Court Reporter: Denise R. Leonard-Derby, CSR, RPR
Siouxland Reporting Service
PO Box 2241
Sioux City, Iowa 51104
(712) 252-5208

* * * *

Videographer: Jay Rollins of American Legal Media
1-888-757-5551

APP 0045

APPEARANCES

For the Plaintiff:

MR. STEVEN E. CRICK
Attorney at Law
Humphrey, Farrington & McClain, P.C.
221 W. Lexington, Suite 400
Independence, Missouri 64050
(816)836-5050
sec@hfmlegal.com

For International Flavors & Fragrances, Inc.:

MS. MARY JO MIDDELHOFF
Attorney at Law
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202
(513) 977-8622
middelho@dinslaw.com

For Flavors of North America, Inc.:

MR. RONALD B. LEE
Attorney at Law
Roetzel & Andress
222 South Main Street
Akron, Ohio 44308
(330) 849-6648
rlee@ralaw.com

For Givaudan Flavors Corporation:

MR. DAMOND R. MACE
Attorney at Law
Squire, Sanders & Dempsey LLP
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114
(216) 479-8500
dmace@ssd.com

2

CONTENTS

Page

| | |
|---|-----|
| Examination by Mr. Mace | 7 |
| Recess, 2:35 p.m. to 2:40 p.m. | 49 |
| Examination by Ms. Middelhoff | 74 |
| Examination by Mr. Lee | 80 |
| Recess, 3:45 p.m. to 3:50 p.m. | 95 |
| Examination by Mr. Benson | 121 |
| Recess, 5:00 p.m. to 5:05 p.m. | 145 |
| Examination by Mr. Crick | 153 |
| Further Examination by Mr. Mace | 171 |
| Proceedings adjourned 5:45 p.m., 12/1/05 | 178 |
| Proceedings resumed 11:10 a.m., 12/2/05 | 178 |
| Further Examination (Continued) by Mr. Mace | 178 |
| Further Examination by Ms. Middelhoff | 184 |
| Further Examination by Mr. Lee | 184 |
| End of Proceedings, 11:20 a.m., 12/2/05 | 188 |
| Addendum to Deposition | 189 |
| Certificate of Deponent | 190 |
| Certificate of Reporter | 191 |

* * * *

4

APPEARANCES (Continued)

For Sensient Flavors, Inc.:

MR. PAUL E. BENSON
Attorney at Law
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202
(414) 225-2757
pebenson@michaelbest.com

For The American Pop Corn Company:

MR. JEFFREY L. POULSON
Attorney at Law
Corbett, Anderson, Corbett, Poulson &
Vellinga, LLP
400 Security National Bank Building
423 6th Street
Sioux City, Iowa 51101
(712) 277-1261
jpoulson@corbettanderson.com

3

INDEX TO EXHIBITS

Number and Description First Referenced

| | |
|--|-----|
| 1 - Letter to Burns from Hartshorn, 4/2/97 | 52 |
| 2 - Butter descriptive terms | 53 |
| 3 - FONA file re flavor descriptions | 54 |
| 4 - Employee Annual Performance Evaluation | 57 |
| 5 - American Pop Corn Company Pesticide Guidelines | 58 |
| 6 - Alphabetical list of chemicals | 102 |
| 7 - Health Hazard Evaluation Report July 2004 | 135 |
| 8 - Exhibit A to Givaudan Flavors Corporation's Response to Plaintiff's Interrogatory Number 2 | 162 |
| 9 - American Pop Corn Company invoice to Universal Flavors, 2/16/00 | 163 |
| 10 - American Pop Corn Company invoice to Flavors of North America, Inc., 9/16/99 | 163 |

5

1 THE VIDEOGRAPHER: This is the beginning of
2 Videotape Number 1. I'm your videographer, Jay
3 Rollins. I represent American Legal Media in
4 Moorhead, Iowa. I am not financially interested in
5 this action, nor am I a relative or employee of any
6 attorney of any of the parties. The date is
7 December 1st. The time is 1:40 p.m.

8 This deposition is taking place at Heidman
9 Law Offices, 701 Pierce Street, Suite 200, Sioux
10 City, Iowa. This is Case Number 5:04-cv-04061-MWB
11 entitled Kevin Remmes versus International Flavors
12 and Fragrances, et al. The deponent is Dale
13 Hartshorn. This deposition is being taken on behalf
14 of the defendant. The court reporter is Denise
15 Leonard of Siouxland Court Reporting. Counsel will
16 now introduce themselves.

17 MR. CRICK: Steven Crick for the
18 plaintiffs.

19 MR. POULSON: Jeff Poulson, American Pop
20 Corn Company.

21 MR. BENSON: Paul Benson on behalf of
22 Sensient Flavors.

23 MR. LEE: Ron Lee on behalf of FONA.

24 MS. MIDDELHOFF: Mary Jo Middelhoff on
25 behalf of International Flavors and Fragrances.

6

1 Q How long have you been that?

2 A I've been employed since fall of 1988.

3 Q Let's go at it that way then. In the fall
4 of '88, what were you hired in as?

5 A I was hired to run the microwave production
6 facility that was being built.

7 Q Was your title microwave production manager
8 equivalent?

9 A I don't know that I had a title, but that's
10 essentially it.

11 Q Has there been any changes to your job
12 responsibilities through the years?

13 A Yes.

14 Q What changed and when?

15 A In January of 1989 another person quit and
16 I assumed their job responsibilities, which dealt
17 with working with co-packers.

18 Q Who was that?

19 A Pat Floyd.

20 Q How many different co-workers?

21 A We only had one co-packer at the time.

22 Q Who was that?

23 A Omark Packaging.

24 Q What years did American Pop Corn use Omark?

25 A I'm not sure the year they started, but

8

1 MR. MACE: Damond Mace representing
2 Givaudan Flavors Corporation

3 DALE HARTSHORN
4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. MACE:

7 Q Mr. Hartshorn, have you ever had your
8 deposition taken before?

9 A Yes, once a long time ago in a traffic
10 accident case.

11 Q Just to review briefly with you some of the
12 ground rules. It's important you answer orally; not
13 just with nods of the head, all right?

14 A (Nods head in affirmative answer.) Yes.

15 Q As you nod your head. It's important you
16 understand my questions. So if you don't understand
17 them, will you let me know?

18 A Yes.

19 Q Thank you. And if you need a break at any
20 time, just let us know. But we would ask that you
21 give us a five-minute warning so we can finish our
22 line of questioning, all right?

23 A Sure.

24 Q What's your job title, sir?

25 A Microwave product manager.

7

1 they began packing microwave popcorn for American Pop
2 Corn Company before I started, several years before I
3 started.

4 Q And how long did that continue?

5 A Up until probably three or four years ago.

6 Q And how did the volume of what they
7 co-packed change over the years?

8 A As we increased lines in Sioux City, it
9 generally went down, although there were some dips
10 and valleys when our sales outstripped our capacity
11 in Sioux City and they packed for us again.

12 Q Were there only certain products that were
13 packed by Omark or

14 A They packed pretty much everything we
15 packed.

16 Q Okay. And were the raw materials that
17 Omark needed to pack your popcorn sent to Omark by
18 you, by American Pop Corn?

19 A They were either sent by us or they were
20 sent directly from other suppliers. We didn't ship
21 everything through Sioux City.

22 Q Where did you work prior to American Pop
23 Corn?

24 A Consolidated Popcorn Company in Schaller,
25 Iowa.

9

1 A No.
2 Q You're not aware of anyone else who did?
3 A No.
4 Q The other gentleman, you weren't sure which
5 of the other two, that had an issue, did they go to
6 the doctor?

7 A I believe they went to the doctor when I
8 did.

9 Q You went together?

10 A I don't know if it was the same time, same
11 appointment or what, but they saw the doctor at the
12 same time. And I think we both went home for a
13 couple of days.

14 Q Are you aware of anything that was done by
15 American Pop Corn to inform other microwave popcorn
16 companies about that?

17 A I'm not aware of anything, no.

18 Q Are you aware of anything that was done by
19 American Pop Corn to inform any customers of American
20 Pop Corn about that?

21 A Not aware of anything, no.

22 Q The person that you spoke with at Morton,
23 are you aware of whether they actually dealt with the
24 super fine salt?

25 A That plant is where they produced it for

66

1 Q Yes, sir. When it was Tastemaker.

2 A I know I was there at least once. I think
3 probably twice.

4 Q And then a new company was formed in the
5 spring of '97, Givaudan, that became known as
6 Givaudan Flavors Corporation today. How many times
7 have you been to that plant in Cincinnati?

8 A At least once. And I don't know if I've
9 been there twice or not.

10 Q You have at least once. When was that?

11 A I visited there a year and a half ago.

12 Q The Tastemaker visit or visits, do you know
13 when those were?

14 A One would have been probably in '89 or '90.
15 I'm trying to recall. '89, '90, '91, somewhere in
16 there. And again about in '93 or '94. Again, I'm
17 not completely clear on which -- or when exactly,
18 but ...

19 Q Did you get a plant tour as part of those
20 trips?

21 A Yes.

22 Q Both of them?

23 A Yes, I believe so.

24 Q What was Tom Elsen's role in terms of the
25 flavor creation or working with the details of what

68

1 us, yes.

2 Q Do you know what other products they made
3 there besides the super fine?

4 A I believe they made many others. That was
5 one of their main plants.

6 Q And the specific person you spoke with, do
7 you know if they ever had any personal experience
8 with the super fine?

9 A No, I don't.

10 Q Okay. Did you keep any type of notes or
11 records of this discussion with the person from
12 Morton?

13 A I don't recall making -- I don't recall any
14 specific notes. I may have, but I don't recall right
15 now anything specific.

16 Q Back -- you understand there's different
17 companies, Tastemaker and then Givaudan in '97?

18 A Yes.

19 Q I wanted to focus on pre '97 Tastemaker.
20 Had you ever been to Tastemaker's plant in
21 Cincinnati?

22 A Yes.

23 Q How many times?

24 A I've probably been there -- you mean before
25 '97?

67

1 was in the flavors?

2 A Tom would be -- he's a marketing person and
3 would deal with, you know, what kind of flavor do we
4 need. Do we need a movie theater butter or do we
5 need a new cheese flavor and then in taste testing.

6 Q Is he still at the plant?

7 A Yes.

8 Q There's a document, Remmes Exhibit 3, that
9 refers in the middle of the paragraph to Mr. Remmes
10 being transferred to the night shift in December of
11 '98. Does that sound about right to you? This was
12 from American Pop Corn's answer --

13 A That's very possible. I don't remember the
14 exact time.

15 Q Now, was there already a night shift before
16 Mr. Remmes was transferred to it, or did he get
17 transferred to it at the -- when you first started
18 having a night shift?

19 A I'm going to say that's probably about the
20 time we started our shift night. 1998 sounds about
21 right.

22 Q Do you know when Mr. Remmes came back to
23 day shift?

24 A No, I'm not -- I don't know.

25 Q Back in the mid '90s, are you familiar with

69

1 Q What's your testing protocol?
 2 A We do a couple things. We taste test. We
 3 send it out for nutritional testing.
 4 Q Okay.
 5 A That's about it.
 6 Q Do you do any type of testing with respect
 7 to -- for example, when one opens the bag, any vapors
 8 or anything like that?
 9 A We don't test for volatiles specifically.
 10 We've tested the temperature of the air coming out of
 11 the popcorn bag.
 12 Q Has there ever been, to your knowledge, any
 13 testing with regard to whether there are any volatile
 14 organic compounds that are affiliated with your
 15 microwave popcorn?
 16 A Not -- maybe not ours specifically, but
 17 there was a great deal of testing done about eight or
 18 nine years ago by another lab, another person.
 19 Q Who?
 20 A Sara Risch.
 21 Q Okay. And what did she find?
 22 A I would -- I can summarize what I remember
 23 from it. There were any number of compounds that
 24 were produced by microwave popcorn in very, very,
 25 very small quantities. I think the concern at the

150

1 production? Do you have a particularized timetable
 2 on that?
 3 A Boy, that would vary a lot by flavor. Some
 4 of them turn fairly rapidly. We may purchase a
 5 flavor every six to eight weeks. Some of them we
 6 would purchase perhaps once a year. Some of them
 7 just don't get used very much.
 8 Q Okay. Final questions relate to the
 9 shifts. I understand you have for some time now had
 10 a night shift and a day shift; is that right?
 11 A Yes.
 12 Q Okay. Do the people, the mixers who work
 13 on the night shift versus the day shift, typically
 14 make different products?
 15 A They're generally the same. We have -- our
 16 sugar flavor is a little more difficult to make. You
 17 have to make sure that it doesn't set up or get lumps
 18 in it. So we've tended to stay on the day shift with
 19 that. Otherwise, the other flavors have been made by
 20 everybody; and in fact, last night the night shift
 21 made sugar. So they pretty much make everything on
 22 both shifts.
 23 Q Okay.
 24 MR. BENSON: I believe that's all I have,
 25 Mr. Hartshorn. Thank you very much.

152

1 time was whether the susceptor, the heat patch was
 2 heating things up so hot that it was creating
 3 compounds that might be toxic. As I recall, they
 4 were talking about benzene or something like that.
 5 The study was to see where did they go? Did they
 6 stay in the bag? Were they in the popcorn?
 7 Sara Risch and someone at a lab, Aspen Labs
 8 or something, inserted tubes into the bags while they
 9 popped and found various ways to capture the air or
 10 gases or whatever and checked to see what was in
 11 them.
 12 Q Okay. And what was -- if you recall, what
 13 was the conclusion of her analysis?
 14 A Pretty innocuous. There were some things
 15 in there, but they compared the levels of them, for
 16 instance, to breathing the air in a New York City
 17 street. You know, no worse than that.
 18 Q Okay. What is the shelf life of your
 19 products?
 20 A We have a shelf life of a year and a half,
 21 and that is really for popping purposes. They could
 22 be good to eat for even longer if kept properly.
 23 Q Okay. And what's the typical turnaround
 24 time from a flavoring product coming into one of your
 25 warehouse facilities, and it actually going into

151

1 THE WITNESS: Mm-hmm (Yes).
 2 EXAMINATION
 3 BY MR. CRICK:
 4 Q My name's Steve Crick. I represent Kevin
 5 Remmes. I'm going to repeat a few things just to put
 6 them in context.
 7 Can you tell me again what year you started
 8 at American Pop Corn?
 9 A 1988.
 10 Q And you've been with American Pop Corn ever
 11 since that time?
 12 A Yes.
 13 Q And your position today is again what?
 14 A It's microwave product manager is the
 15 title. It's mostly production manager, though.
 16 Q You've essentially been in that position
 17 since '88 as well?
 18 A Yes. I was really the production manager;
 19 then the product manager, and then the production
 20 kind of product manager.
 21 Q And American Pop Corn makes microwave
 22 popcorn as one of its primary products?
 23 A Yes.
 24 Q And it's one of the leading industries in
 25 the Sioux City area, I'm assuming. Would you agree?

153

1 A Yes. It's a decent-sized company.
2 Q You have about 100 employees?
3 A 180 or so.
4 Q 180 employees?
5 A Yeah.
6 Q And essentially what you do is you make fun
7 food for people to eat at home or elsewhere?
8 A That's the idea.
9 Q In fact, your address is One Fun Place.
10 A That is correct.
11 Q Jolly Time. That's the brand name for the
12 products you make?
13 A Yes.
14 Q Has there been any particular point in time
15 in your career at American Pop Corn that you thought
16 you were manufacturing a food product that could hurt
17 people?
18 A No.
19 Q You said several times today that you've
20 heard of diacetyl. During the period of the '90s,
21 were you aware that diacetyl could cause serious lung
22 injury to people that worked --
23 MR. MACE: Objection.
24 Q (By Mr. Crick) -- at your place of
25 employment?

154

1 like Kevin Remmes worked where he would mix
2 ingredients that would be used in the flavors?
3 A Yes.
4 Q Now, you were asked some questions earlier
5 today about different flavors that American Pop Corn
6 made -- makes. And I want to go through that a
7 little bit right now. What would you say is the most
8 popular flavor that's been manufactured at American
9 Pop Corn?
10 MR. MACE: Today or over all time?
11 Q (By Mr. Crick) Well, today.
12 A Blast O --
13 MR. POULSON: I'm going to object. That's
14 not relevant to anything and gets into some
15 proprietary issues. If you could limit yourself to
16 the period that Kevin Remmes was employed in the
17 mixing room.
18 Q (By Mr. Crick) What's the most popular
19 product today?
20 MR. POULSON: Don't answer.
21 MR. CRICK: You're not going to say what
22 the most popular product is? How can that be
23 confidential?
24 MR. POULSON: Don't answer. It's not
25 relevant.

156

1 MR. BENSON: Objection.
2 MR. LEE: Objection.
3 MS. MIDDELHOFF: Objection.
4 A No clue, no.
5 MR. BENSON: Again, Attorney Crick, in
6 interest of streamlining, if one person objects, can
7 that just be for everybody?
8 MR. CRICK: Yes.
9 MR. BENSON: Okay.
10 Q (By Mr. Crick) You mentioned some flavors.
11 Essentially what you do at American Pop Corn is you
12 take popcorn and you mix it with oil, salt, some
13 flavorings in a bag that's a microwaveable bag and
14 then seal it, put it in boxes for people to purchase
15 at grocery stores?
16 A Correct.
17 Q And there's a Bartelt line that spits in
18 the popcorn, moves down the line, spits in the oils
19 and flavorings, and it folds the -- seals and folds
20 the bags and wraps them in plastic for someone to put
21 in boxes. Is that a short description of how that
22 process works?
23 A Yes.
24 Q And before the mixture can be used at the
25 Bartelt line, there is a mixing area where people

155

1 MR. CRICK: It is absolutely relevant,
2 because it establishes -- I'm going to go all through
3 it in just a minute. It's going to establish the
4 relevance.
5 Q (By Mr. Crick) What was the most popular
6 product during the period of '95 to 2001?
7 A That's a good question. Blast O Butter
8 didn't exist in '95. Healthy Pop wasn't a big
9 seller. Probably Butter-Licious or butter was our
10 butter flavor in '95, '6, '7 in there.
11 Q Okay. Who supplied the flavoring -- the
12 butter flavoring for Butter-Licious?
13 A I'd have to look. Givaudan for pretty much
14 that whole period.
15 Q Do you know who supplied -- I'm going to go
16 through each of them so we may repeat a little bit.
17 Blast O Butter. That was supplied by who?
18 A That was Sensient.
19 Q Butter-Licious. You just said that was
20 Givaudan?
21 A Mm-hmm (Yes). Yes.
22 Q Healthy Pop?
23 A I've got to stop and remember which flavor
24 is which. That would be Givaudan.
25 Q How about White & Buttery?

157

1 involved at that time was even a FONA flavor,
2 correct?

3 A Not without looking at other records, I
4 wouldn't recall what flavor it was.

5 Q What records would you have to look at to
6 determine what flavor was being used?

7 A If I could find old formulas or old
8 receipts for purchases to show what we were using at
9 the time.

10 Q Is it also your understanding that when you
11 talked with the people at FONA, you talked to them
12 because they were there for sales and things of that
13 nature; not because it was a FONA flavor?

14 A Correct. I don't think I was asking them
15 specifically about their flavor. I was asking them
16 about flavors --

17 Q Flavors in general?

18 A Yes.

19 Q And then FONA supplied you with information
20 that the flavors do contain diacetyl, correct?

21 A Yes.

22 Q And didn't they also talk to you about the
23 fact that you needed to have adequate ventilation?

24 A During that conversation?

25 Q Yes.

186

1 MR. BENSON: I have no questions.

2 MR. CRICK: I don't have any questions.

3 MR. MACE: We're done.

4 THE VIDEOGRAPHER: This is the end of
5 Videotape Number 3. Counsel, we're off the record.

6 * * *

7 END OF PROCEEDINGS AT 11:20 a.m., 12/2/05.

8 * * *

188

1 A I'm trying to recall. The most I recall is
2 that they just talked about how the flavor was
3 damaging to the eyeballs. And I don't remember if
4 they suggested any ventilation or not.

5 Q So you just don't remember one way or
6 another?

7 A No, I don't.

8 Q Did they discuss with you how they handled
9 any issues they had with diacetyl?

10 A Not that I recall.

11 Q Not that you recall?

12 A Hmm-mm (No).

13 Q There was also some indication about Kettle
14 Mania. You indicated you used a FONA product. Would
15 that have been an actual vanilla -- sweet vanilla
16 product and not a butter?

17 A That is a sweeter flavor. I don't believe
18 that's a butter flavor. That's a sweet flavor.

19 Q Right. Sweet vanilla?

20 A I don't know --

21 Q You don't know?

22 A -- if it's the right note, but it's a
23 sweet -- we just call it a sweet-style flavor.

24 Q Yeah. That's fine.

25 MR. LEE: That's all I have.

187

1 CASE NAME: Remmes v. IFF, et al

2

3 ADDENDUM TO DEPOSITION
4 Page Line Change and Reason

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

Case name: Remmes v. IFF, et al

CERTIFICATE OF DEPONENT

I, the undersigned deponent, do hereby certify under oath that I did read the foregoing pages of transcript and that any corrections I want to make to the foregoing pages of transcript have been set out on the foregoing Addendum, and that I have indicated the correction itself, the page and line number of the correction, and the reason for the correction, if any.

In witness whereof, I have hereunto affixed my signature on this _____ day of _____, _____, before the undersigned Notary Public.

DEPONENT

I hereby certify I did witness the above signature on this the _____ day of _____, _____, in the City of _____, County of _____, State of _____.

NOTARY PUBLIC

My commission expires:

6. I further certify that I am not related by consanguinity or affinity within the fourth degree to any party, his attorney, or any employee of any of them; that I am not financially interested in this action, and that I am not the attorney or employee of any party.

7. Exhibits 1 through and including 43 were filed with the original transcript and a copy was provided with each of the copies.

To all of which I have verily affixed my signature this _____ day of _____, _____.

DENISE R. LEONARD-DERBY, CSR, RPR
Siouxland Reporting Service
PO Box 2241
Sioux City, Iowa 51104
(712) 252-5208

CERTIFICATE OF REPORTER

I, Denise R. Leonard-Derby, Certified Shorthand Reporter in and for the State of Iowa, do hereby certify as follows:

1. That the deponent aforementioned was duly sworn prior to the taking of this deposition.

2. That I took down in shorthand correctly the testimony of said deponent and have caused the same to be transcribed, and that this deposition is a true and correct record of the testimony given by said deponent at the time I affix my signature to this certificate.

3. That the total cost for reporting and transcribing is in the sum of \$ _____, said sum to be advanced and paid to Siouxland Reporting Service, PO Box 2241, Sioux City, Iowa 51104, prior to the use of said deposition at trial by Mr. Damond Mace.

4. That the original transcript of this deposition is to be filed with Mr. Damond Mace.

5. That a copy is to be delivered to Mr. Damond Mace, Ms. Mary Jo Middelhoff, Mr. Ronald Lee, Mr. Paul Benson, Mr. Jeffrey Poulson, and Mr. Steven Crick.